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# Transcript of Scott Rocky

**Date:** September 27, 2019  
**Case:** Elhady -v- Pew, et al.

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Transcript of Scott Rocky  
Conducted on September 27, 2019

1 (1 to 4)

1	IN THE DISTRICT COURT OF THE UNITED STATES	1	JONATHAN GOULDING
2	FOR THE EASTERN DISTRICT OF MICHIGAN	2	United States Attorney's Office
3	SOUTHERN DIVISION	3	211 West Fort Street, Suite 2001
4		4	Detroit Michigan 48226
5	ANAS ELHADY,	5	313.226.9742
6	Plaintiff,	6	jonathan.goulding@usdoj.gov
7	vs. Case No. 17-12969	7	Appearing on behalf of U.S. Customs and Border
8	Hon. Mark A. Goldsmith	8	Protection.
9	Mag. Judge Anthony P. Patti	9	
10		10	
11	MATTHEW PEW, et al.,	11	
12	In their individual capacities, only,	12	
13	Defendants.	13	
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15		15	
16		16	
17	The Deposition of SCOTT ROCKY,	17	
18	Taken at 211 West Fort Street, Suite 2001,	18	
19	Detroit, Michigan,	19	
20	Commencing at 10:14 a.m.,	20	
21	Friday, September 27, 2019,	21	
22	Before Joanne Smith, CSR-3099.	22	
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2 (5 to 8)

7

1 Detroit, Michigan

2 Friday, September 27, 2019

3 10:14 a.m.

4 SCOTT ROCKY,

5 was thereupon called as a witness herein, and after  
6 having first been duly sworn to testify to the truth,  
7 the whole truth and nothing but the truth, was  
8 examined and testified as follows:

9 EXAMINATION

10 BY MS. HOMER:

11 Q. Good morning, Mr. Rocky. My name is Carolyn Homer.  
12 I'm an attorney at the Council of American and Islamic  
13 Relations. Could you please state and spell your  
14 whole name for the record?15 A. Sure. It's Scott James Rocky, S-c-o-t-t, J-a-m-e-s,  
16 R-o-c-k-y.

17 Q. And Mr. Rocky, have you ever been deposed before?

18 A. No.

19 Q. Have you ever testified in court before?

20 A. No.

21 Q. Have you ever been a party to any civil or criminal  
22 lawsuit before?23 A. We -- my daughter was bit by a dog when she was  
24 younger and we had to sue, but that was it.

25 Q. But that didn't entail any depositions --

5

1 Q. So that means that uh-huh or un-uh or nodding your  
2 head, that doesn't show up on a transcript.

3 A. Right.

4 Q. So -- Excellent. We will -- we will work on verbal  
5 communication. In addition, because we're trying to  
6 get clean questions and answers, it's important that  
7 we don't interrupt each other. It's natural in human  
8 conversation for you to assume that you know where I'm  
9 going. So sometimes I'll have to reask questions so  
10 it shows up more clearly. But can we try to not  
11 interrupt each other?

12 A. Okay.

13 Q. Excellent. Every now and then your counsel, Benjamin,  
14 and counsel for Customs and Border Protection,  
15 Jonathan, may object to a question I ask and so in  
16 order to give them the space to do that, can you just  
17 try to wait a half beat before you answer a question  
18 in case they want to get something on the record?

19 A. Yes.

20 Q. Mr. Rocky, what is your understanding as to why you're  
21 here today?22 A. I believe that I'm being part of a, named as part of a  
23 Bivens lawsuit that was brought by Elhady against us.

24 Q. Do you know what a Bivens lawsuit is?

25 A. I believe it is --

8

1 A. No.

2 Q. -- or court testifying? I'm going to give you quick  
3 instructions that your counsel probably went over with  
4 you but I'm going to repeat them. So first off, you  
5 understand that you're under oath today?

6 A. Yes.

7 Q. You're sworn to tell the truth?

8 A. Yes.

9 Q. Is there any medical or other reason that you would be  
10 unable to provide truthful testimony today?

11 A. No.

12 Q. I'm not trying to trick you but human language is hard  
13 and so if I ask a question that's unclear, please just  
14 ask me to clarify it. Can you do that?

15 A. Yes.

16 Q. Okay. And if I ask a question and you answer the  
17 question, is it fair for me to assume that you have  
18 understood the question?

19 A. Yes.

20 Q. You're doing an excellent job of this so far but  
21 because we have a court reporter who's transcribing  
22 this in a question and answer format, it's very  
23 important to answer all my questions verbally. Can  
24 you try to answer questions verbally?

25 A. Yes.

1 MR. ANCHILL: I object. It calls for a  
2 legal conclusion.

3 BY MS. HOMER:

4 Q. You can still answer.

5 MR. ANCHILL: Go.

6 THE WITNESS: I believe it is suing us in  
7 our individual capacities.

8 BY MS. HOMER:

9 Q. Do you have any memory of Anas Elhady?

10 A. Yes.

11 Q. Okay. We're going to get to that later but that's  
12 good to know. What did you do to prepare for your  
13 testimony today?

14 A. I don't understand.

15 Q. Great. Okay. Before coming here today, did you  
16 review any documents about this case?

17 A. I reviewed the record that was given to me.

18 Q. Okay. And do you know what record that was?

19 A. I believe it was the TECS record that was printed out.

20 Q. Okay. Aside from the TECS record did you review  
21 anything else?

22 A. No.

23 Q. Mr. Rocky, what is your educational background?

24 A. I have a high school diploma. I have basic U.S.

25 Customs and Border Protection training. I attended

## Transcript of Scott Rocky

3 (9 to 12)

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	9		11
1	the American University, American Military University	1	A. No.
2	towards a degree in homeland security. I have classes	2	Q. When did that change?
3	that I've taken as part of being a Customs and Border	3	A. Sorry. They ended the counter-terrorism response
4	Protection officer.	4	officer maybe four years ago, five years ago.
5	Q. Okay. So you said you attended this American	5	Q. Were you a counter terrorism response officer in 2015?
6	University Homeland Security Program?	6	A. Yes.
7	A. It's the American Military University.	7	Q. When they, by they do you mean CBP, when they ended?
8	Q. American Military University?	8	A. Yes, I mean CBP.
9	A. AMU.	9	Q. Okay. So when CBP ended the counter-terrorism
10	Q. But you did not complete a degree there, at least not	10	response officer designation, did they replace it with
11	yet?	11	a similar title or designation?
12	A. No.	12	A. Yes.
13	Q. Okay. Are you still working on a degree there?	13	Q. Okay. What did they replace it with?
14	A. No.	14	A. The tactical terrorism response team.
15	Q. Okay. What certifications do you have? You mentioned	15	Q. Are you a member of a tactical terrorist response
16	that you had gotten some CBP training; right?	16	team?
17	A. Yes.	17	A. No.
18	Q. Okay. Did any of those trainings lead to like a	18	Q. Why not?
19	formal certification of any sort?	19	A. The job description as I knew it changed and I didn't
20	A. Well, I have basic first aid, American Red Cross, CPR.	20	want to go through the additional training.
21	Q. Okay. You are not a certified emergency medical	21	Q. So what was the job description of a counter-terrorism
22	technician?	22	response officer?
23	A. No.	23	MR. GOULDING: Objection, scope, law
24	Q. What courses have you attended as part of your CBP	24	enforcement privilege and I'll direct the witness not
25	training?	25	to answer.
	10		12
1	A. Well, most recently I attended an x-ray training	1	BY MS. HOMER:
2	class. We have yearly recertifications we have to do	2	Q. What is the job description of a tactical terrorism
3	and I also was a CTR officer.	3	response team member?
4	Q. What's a CTR officer?	4	MR. GOULDING: Objection, scope, law
5	A. Counter-terrorism response officer.	5	enforcement privilege and I'll direct the witness not
6	Q. Okay. Is CBP your current employer?	6	to answer.
7	A. Yes.	7	BY MS. HOMER:
8	Q. How long have you been employed by CBP?	8	Q. Since 2008 in your time at CBP, where have you
9	A. Since May of 2008.	9	physically worked?
10	Q. And CBP has been your employer for the last 11 years?	10	A. I started at the Fort Street Customs facility. I was
11	A. Yes.	11	there for three, maybe four months, and then I
12	Q. When you were hired in 2008 by CBP, what was your job	12	transferred to the Ambassador Bridge passenger
13	title?	13	facility and I've been there since.
14	A. U.S. Customs and Border Protection officer.	14	Q. So you have been stationed at the Ambassador Bridge
15	Q. And have you been promoted or has your title changed	15	exclusively for approximately a decade?
16	since then?	16	A. Yes.
17	A. No.	17	Q. Would you describe yourself as familiar with the
18	Q. Have you ever held a supervisory position?	18	operations of the Ambassador Bridge?
19	A. No.	19	A. Yes.
20	Q. At what point did you become a counter-terrorism	20	Q. Have you held any other special designations like
21	response officer?	21	counter-terrorism response officer during your
22	A. It may have been 2012 or 2013. I don't remember the	22	decade --
23	exact date.	23	A. No.
24	Q. And are you still a counter-terrorism response	24	-- at the Ambassador Bridge?
25	officer?	25	A. Sorry.

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4 (13 to 16)

	13		15
1 Q.	You're fine. What additional responsibilities does	1 6:00 a.m to 4:00 p.m at that time.	
2 being a counter-terrorism response officer include in	2 Q. But your shift started at 6:00 a.m?		
3 addition to being a Customs and Border Protection	3 A. Yes.		
4 officer?	4 Q. You would never have worked between midnight and 6:00		
5 MR. GOULDING: You first.	5 a.m?		
6 MR. ANCHILL: Objection, form.	6 A. I may have for overtime.		
7 MR. GOULDING: Scope, law enforcement	7 Q. How -- So it's my understanding that CBP kind of		
8 privilege and I'll direct the witness not to answer.	8 allots a certain amount of overtime that officers can		
9 BY MS. HOMER:	9 work in a year. Is that roughly fair?		
10 Q. When you were a counter-terrorism response officer,	10 A. Yes.		
11 who did you report to?	11 Q. Okay. And then do you try to max out your overtime		
12 A. That would have been the immediate supervisor on	12 every year?		
13 shift.	13 A. No.		
14 Q. Okay. And would that immediate supervisor have a	14 Q. No. Okay. But every now and then you do pick up		
15 specific title?	15 overtime?		
16 A. Supervisory Customs and Border Protection officer.	16 A. Yes.		
17 Q. How did being a counter-terrorism response officer	17 Q. So it's possible you could have worked a midnight		
18 interact with the joint terrorism task force?	18 shift but that was not your standard shift?		
19 MR. GOULDING: Objection, scope, law	19 A. Yes.		
20 enforcement privilege and I'll direct the witness not	20 Q. Okay. There's a central building at the Ambassador		
21 to answer.	21 Bridge port of entry where secondary inspections are		
22 BY MS. HOMER:	22 conducted; is that correct?		
23 Q. Okay. So in April of 2015, am I correct that you were	23 A. Yes.		
24 a Customs and Border Protection officer who was also	24 Q. What do you call that building?		
25 designated as a counter-terrorism response officer?	25 A. Secondary.		
	14		16
1 A. Yes.	1 Q. Secondary. Okay. So if I refer to the secondary		
2 Q. What were your job responsibilities within Customs and	2 building for the rest of this deposition, you'll know		
3 Border Protection generally in April of 2015?	3 what I'm talking about?		
4 A. Generally as a U.S. Customs and Border Protection	4 A. Yes.		
5 officer, I was charged with interviewing people on	5 Q. Can you describe the secondary building?		
6 primary, determining their admissibility into the	6 A. Two-story building, longer than it is wide.		
7 United States.	7 Q. What physical condition is it in?		
8 Q. Did you have any role in performing secondary	8 A. Varies, depending upon the state of repair it's in.		
9 inspections as well?	9 Q. How would you describe the state of repair?		
10 A. Yes.	10 A. Ongoing.		
11 Q. And did you frequently switch between primary and	11 Q. Ongoing. Is it an old building?		
12 secondary inspection duties?	12 A. I don't know when it was constructed.		
13 A. Yes.	13 Q. Have you seen it undergo renovations in the decade		
14 Q. Was there anything that could not be categorized as	14 you've been working there?		
15 primary or secondary inspections that you were doing	15 A. I've seen it undergo repairs.		
16 for CBP in April 2015?	16 Q. What repairs have you seen it undergo?		
17 A. Vehicle inspections, which would also be a form of	17 A. Paint, new floor, new light fixtures put in in the		
18 secondary.	18 lobby area.		
19 Q. But you didn't have any sort of back office or	19 Q. Have you seen any like wholesale remodel where walls		
20 management or supervisor role in April 2015?	20 are knocked down and rebuilt?		
21 A. No.	21 A. No.		
22 Q. Did you have a set shift schedule in April 2015?	22 Q. Have you seen any changes to the heating and cooling		
23 A. Yes.	23 system?		
24 Q. What was your shift?	24 A. No.		
25 A. 2015, I'm not sure if I was 6:00 a.m. to 2:00 p.m. or	25 Q. Do you have any role in identifying, identifying		

Transcript of Scott Rocky  
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5 (17 to 20)

	17		19
1	maintenance problems in the building and requesting	1	on?
2	their repair?	2	<b>A. The first floor.</b>
3	<b>A. No.</b>	3	Q. And which floor is like the secondary inspection
4	Q. Do you know who is primarily responsible for	4	holding cells on?
5	maintaining the physical condition of the building?	5	<b>A. The first floor.</b>
6	<b>A. I believe that's the bridge company.</b>	6	Q. So on the first floor there are two thermostats you
7	Q. Okay. And is that its title, the bridge company, or	7	said?
8	does it have a formal name?	8	<b>A. Yes.</b>
9	<b>A. Ambassador Bridge Company. I'm not sure if it's a</b>	9	Q. Can you describe where those thermostats are located?
10	<b>formal name.</b>	10	<b>A. One is in the lobby area and one is just outside the</b>
11	Q. Okay. Is it your understanding that CBP leases that	11	<b>lobby area.</b>
12	secondary building from the bridge company?	12	Q. How does a person go about changing the temperature on
13	<b>A. Yes.</b>	13	either of those thermostats on the first floor?
14	Q. Do you know anything about how maintenance records are	14	<b>A. They are kept locked.</b>
15	maintained in the secondary building?	15	Q. Who has a key?
16	<b>A. No.</b>	16	<b>A. Supervisor.</b>
17	Q. Have you ever been in an office that keeps like	17	Q. Is there only one supervisor with a key or do all
18	elevator records on file, something like that?	18	supervisors have a key? Do you know?
19	<b>A. Not that I'm aware of.</b>	19	<b>A. The supervisors have access to the key.</b>
20	Q. Okay. You've never had cause to look through	20	Q. Okay. Do you know where the key is stored?
21	maintenance records?	21	<b>A. Yes.</b>
22	<b>A. No.</b>	22	Q. Where?
23	Q. Are you aware of any complaints about the temperature	23	<b>A. In the supervisor's office.</b>
24	of the building?	24	Q. And what floor is the supervisor's office on?
25	<b>A. We will have passengers come in from when it's really</b>	25	<b>A. The first floor.</b>
	18		20
1	<b>hot outside and say it's cold or when it's really cold</b>	1	Q. How far away is the supervisor's office from the
2	<b>outside and say it's hot, but I think that is more of</b>	2	lobby?
3	<b>a matter of perception.</b>	3	<b>A. The door opens onto the lobby.</b>
4	Q. Have you heard any complaints of it being particularly	4	Q. Have you ever seen a supervisor adjust any of the
5	hot during the summer?	5	thermostats in the secondary building?
6	<b>A. No.</b>	6	<b>A. No.</b>
7	Q. Or any complaints about it being particularly cold in	7	Q. Have you ever asked a supervisor to adjust any of the
8	the winter?	8	thermostats in the secondary building?
9	<b>A. No.</b>	9	<b>A. No.</b>
10	Q. Do you have any knowledge as to the actual temperature	10	Q. Have you ever relayed a traveler's request to adjust
11	of the building at any given time?	11	the temperature in the secondary building?
12	<b>A. To the best of my knowledge, the thermostat is at 72.</b>	12	<b>A. No.</b>
13	Q. So 72 degrees is the standard temperature it's	13	Q. Do you know which thermostat would control the
14	supposed to be set at?	14	temperature of the holding cells?
15	<b>A. I believe.</b>	15	<b>A. I think it is the one on the second floor.</b>
16	Q. Have you personally ever adjusted the thermostat in	16	Q. And why do you think that?
17	the building?	17	<b>A. That is what I've been told since I've worked there.</b>
18	<b>A. No.</b>	18	Q. Have you ever looked at like the HVAC system
19	Q. Am I correct there's only one thermostat in the entire	19	blueprints?
20	building?	20	<b>A. No.</b>
21	<b>A. No.</b>	21	Q. And you're not a mechanical engineer; right?
22	Q. No. Okay. What thermostats are you aware of?	22	<b>A. No.</b>
23	<b>A. There's a thermostat on the second floor and two</b>	23	Q. Have you personally ever complained that the building
24	<b>thermostats on the first floor.</b>	24	was at an uncomfortable temperature?
25	Q. And which floor is the main secondary inspection lobby	25	<b>A. No.</b>

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6 (21 to 24)

	21		23
1 Q.	Have you personally ever complained about any other	1 A. Could be.	
2 maintenance problems in the secondary building?		2 Q.	Is there anywhere else that travelers referred to
3 A. No.		3 secondary inspection are sent other than the public	
4 Q.	And are you aware of any changes to the thermostat	4 lobby or the detention cells?	
5 system in the decade that you've worked at the		5 A. No.	
6 Ambassador Bridge?		6 Q.	What is CBP's policy regarding when a traveler is put
7 A. No.		7 in a holding cell as opposed to the public lobby?	
8 Q.	Have you ever heard a report that thermostat was	8 MR. GOULDING: That's a very broad	
9 broken?		9 question.	
10 A. No.		10 MS. HOMER: It is a broad question.	
11 Q.	Have you ever measured the temperature in the building	11 MR. GOULDING: I'm going to object. Scope,	
12 with something other than a thermostat? Okay. Let me		12 law enforcement privilege and direct the witness not	
13 clarify. Like sometimes when I'm looking I have a		13 to answer.	
14 little laser that tells me the actual temperature.		14 MS. HOMER: Okay.	
15 Have you ever used something like that to determine if		15 BY MS. HOMER:	
16 like one part of the building is hotter or colder than		16 Q.	When a traveler is placed in a holding cell, how long
17 another?		17 are they permitted to be held there by CBP policy?	
18 A. No.		18 A. After a certain amount of time we have to notify the	
19 Q.	Okay. When a traveler is referred to secondary	19 port director. Past that, I believe we have to notify	
20 inspection -- so let's see if my understanding is		20 the AUSA and let them make a determination.	
21 right -- sometimes the secondary inspection just		21 Q.	And how much time goes by before you have to notify
22 happens while they're still in their car and they go		22 the port director?	
23 on their way; is that correct?		23 A. I believe four hours.	
24 A. I'm not sure -- I'm not sure what you're asking me		24 Q.	And how much time before you have to notify the AUSA?
25 here.		25 A. I believe it's eight hours.	
	22		24
1 Q.	Okay. I'm trying -- I'm trying to understand kind of	1 Q.	Have you personally ever notified an AUSA because
2 the different things that could happen while somebody		2 somebody had been held for more than eight hours?	
3 is in secondary inspection. Okay? So my		3 A. No.	
4 understanding of the process is, if you're referred to		4 Q.	Have you ever been on duty when an AUSA was notified
5 secondary, an individual in their car, go park in like		5 because somebody had been held for more than eight	
6 a secondary parking lot; is that fair?		6 hours?	
7 A. Yes.		7 A. I couldn't tell you.	
8 Q.	Okay. And that there are some people who never leave	8 Q.	I guess -- or more -- more clearly, have you ever been
9 that parking lot, they answer some more questions and		9 involved in the decision to call an AUSA even if you	
10 then are sent on their way; is that true?		10 did not personally make the phone call?	
11 A. No.		11 A. No.	
12 Q.	Okay. Are most people who are sent to secondary	12 Q.	If CBP is, has made the determination to place a
13 inspection then sent to the public lobby on the first		13 traveler in a holding cell, do they usually handcuff	
14 floor of the secondary building?		14 that traveler before putting him in the holding cell?	
15 A. Yes.		15 A. Usually.	
16 Q.	And then are some individuals sent back to secondary	16 Q.	What items is a traveler who is being placed in a
17 inspection put in one of the holding cells on the		17 holding cell allowed to have with them?	
18 first floor?		18 A. None of their personal items that would be in their	
19 A. Sometimes.		19 pocket. We would remove outer jackets. We would	
20 Q.	Do you have a rough sense of what percentage of	20 remove the belt and the shoes.	
21 travelers sent to secondary are put in a holding cell		21 Q.	And would you also remove like a purse or laptop bag?
22 as opposed to waiting in the public lobby?		22 A. Yes.	
23 A. I couldn't give you an exact percentage but it would		23 Q.	Cell phone in a pocket?
24 be very, very small.		24 A. Yes.	
25 Q.	So like less than one percent maybe?	25 Q.	Any other luggage they might have with them?

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7 (25 to 28)

	25		27
1 A. <b>They would not have that.</b>		1 Q. So I am going to mark Exhibit 1 to today's deposition	
2 Q. They would not have luggage. How about jewelry, like		2 and off the record for a split second.	
3 necklaces?		3 (Off the record at 10:45 a.m.)	
4 A. <b>That would also be removed.</b>		4 (Back on the record at 10:45 a.m.)	
5 Q. Hats?		5 MARKED FOR IDENTIFICATION:	
6 A. <b>Yes.</b>		6 DEPOSITION EXHIBIT 1	
7 Q. You mentioned shoes. Would you remove their socks if		7 10:45 a.m.	
8 they had them on?		8 BY MS. HOMER:	
9 A. <b>No.</b>		9 Q. Okay. Mr. Rocky, do you recognize these specific	
10 Q. And why are all of these items removed before placing		10 photos?	
11 someone in a holding cell?		11 A. <b>I believe this would be what I would refer to as cell</b>	
12 A. <b>To reduce the risk or chance of them injuring</b>		12 <b>two. This would be cell one.</b>	
13 <b>theirself or someone else that may enter the cell.</b>		13 Q. And do you know what the third picture is of?	
14 Q. So you don't want them having any item, for example,		14 A. <b>It looks like a different angle of picture number one.</b>	
15 they can use to hang themselves?		15 Q. Okay. Did you take the actual photos that are printed	
16 A. <b>Correct.</b>		16 here?	
17 Q. Have you ever seen an individual detained in a holding		17 A. <b>No.</b>	
18 cell who tries to harm themself?		18 Q. But you recognize them as being of the two holding	
19 A. <b>Yes.</b>		19 cells at the Ambassador Bridge secondary building?	
20 Q. Approximately how many times?		20 A. <b>Yes.</b>	
21 A. <b>Maybe twice.</b>		21 Q. Approximately how big is cell one?	
22 Q. And those occasions stand out to you?		22 A. <b>I couldn't tell you the exact size. Probably 15 by</b>	
23 A. <b>Yes.</b>		23 <b>15.</b>	
24 Q. Can you just give me a brief overview of what happened		24 Q. Is it bigger or smaller than this conference room?	
25 on those two occasions?		25 A. <b>Smaller.</b>	
	26		28
1 A. <b>I went to check on a person in a cell and he was</b>		1 Q. And then approximately how big is cell two?	
2 <b>slamming his head into the wall.</b>		2 A. <b>Same size.</b>	
3 Q. That's one of the times. What happened the second		3 Q. Do you have any role in maintaining the cleanliness or	
4 time?		4 physical condition of these cells?	
5 A. <b>The second time was a woman and she kept trying to</b>		5 A. <b>No.</b>	
6 <b>slam herself up against the door.</b>		6 Q. Do you know who does?	
7 Q. And how did you respond in those circumstances where		7 A. <b>The -- I believe General Services Administration takes</b>	
8 there were individuals slamming themselves?		8 <b>care of that.</b>	
9 A. <b>Went and got supervision. Notified supervision.</b>		9 Q. And that's the GSA is the government facilities	
10 Q. Were you involved afterwards in how your supervisors		10 body --	
11 handled that situation?		11 A. <b>Yes.</b>	
12 A. <b>Yes.</b>		12 Q. -- agency?	
13 Q. Was any medical attention called to the cells?		13 A. <b>(Indicating in the affirmative).</b>	
14 A. <b>Not that I can recall.</b>		14 Q. Okay. What is inside these cells?	
15 Q. What was done to make the individuals stop slamming		15 A. <b>Basically just what the pictures show.</b>	
16 themselves against the wall or door?		16 Q. Okay. So I see a bench?	
17 A. <b>They were secured to the bench.</b>		17 A. <b>Yes.</b>	
18 Q. With handcuffs?		18 Q. And is that bench bolted into the floor or wall?	
19 A. <b>Yes.</b>		19 A. <b>Yes.</b>	
20 Q. Okay. Would you describe yourself as generally		20 Q. Okay. And what material is the bench made out of?	
21 familiar with the holding cells at the Ambassador		21 A. <b>Wood and metal.</b>	
22 Bridge?		22 Q. And then I see what looks to be like concrete blocks.	
23 A. <b>Yes.</b>		23 That's what the walls are made out of?	
24 Q. How many of them are there?		24 A. <b>They're -- yes.</b>	
25 A. <b>Two.</b>		25 Q. Okay. Then also concrete floors?	

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8 (29 to 32)

	29		31
1 A. Yes.		1 A. There's a window in the door.	
2 Q. And then in one cell it looks like there's a concrete		2 Q. Okay. And the window in the door, what does it look	
3 privacy wall?		3 out on, the hallway?	
4 A. Yes.		4 A. The hallway.	
5 Q. And then -- Okay. That's in cell two. And then in		5 Q. Okay. Are there any windows to the outside world?	
6 cell one it looks like there's a metal privacy wall?		6 A. In the cells?	
7 A. Yes.		7 Q. In the cells.	
8 Q. And then behind those walls there are toilets; right?		8 A. No.	
9 A. Yes.		9 Q. So across from the door, like the back wall of the	
10 Q. Is there a water fountain or hand washing station,		10 window or -- Start over. So across from the door with	
11 too?		11 the window, like the other wall, is that an interior	
12 A. Yes.		12 wall to somewhere else in the building or is it back	
13 Q. Is that attached to the toilet? Is it part of the		13 up against an exterior wall of the building?	
14 same unit?		14 A. Looking out from the cell?	
15 A. Yes.		15 Q. No. Okay. So let's say you walk in the door.	
16 Q. Is that water drinkable?		16 A. Okay.	
17 A. Yes.		17 Q. The wall you're staring at when you walk in the door,	
18 Q. Do you know if anyone ever like performs sanitary		18 what does that wall back up against?	
19 inspections to ensure that it's drinkable?		19 A. I believe that's an exterior wall.	
20 A. Not to my knowledge.		20 Q. Also looking on page 3, there appears to be a vent in	
21 Q. On the third one of these pictures there are lights.		21 kind of the middle of the picture?	
22 Do you see that?		22 A. Yes.	
23 A. Yes.		23 Q. What is that?	
24 Q. Is that basically the same lighting that is in both		24 A. A vent.	
25 cells?		25 Q. Is it -- is it an air vent?	
	30		32
1 A. Could be.		1 A. Yes.	
2 Q. How would you describe those lights? I mean, are they		2 Q. Does it have both hot and cold air, depending on the	
3 bright? Are they dim? Are they large? Are they		3 season?	
4 small? I mean, just --		4 A. Yes.	
5 A. They're lights -- the one in the picture on page 3,		5 Q. Okay. And then between the lights on the ceiling,	
6 they look like these with a filter over them.		6 there's like a mesh thing. I honestly don't know what	
7 Q. Okay.		7 it is. Do you know what that is?	
8 MS. HOMER: And just let the record reflect		8 A. I apologize. I thought that's what you were talking	
9 that the witness pointed to the overhead lights in		9 about.	
10 this conference room.		10 Q. Oh, I apologize. Okay. Let's clarify. So between	
11 MR. GOULDING: They're 48-inch fluorescent		11 the lights there's this mesh box. What is that?	
12 lights.		12 A. I believe that is the heating and cooling system.	
13 MS. HOMER: I'm sure the General Services		13 Q. Okay. And then if you go down onto the side of the	
14 Administration can give us more information.		14 wall there's another little mesh box. Do you know	
15 BY MS. HOMER:		15 what that is?	
16 Q. Okay. Do those lights, do they have any sort of		16 A. Personally, I believe that would be the cold air	
17 dimmer switch on them? Like can their brightness be		17 return.	
18 adjusted?		18 Q. Okay. So if I understand you right, the ceiling is	
19 A. No.		19 where air gets sent into the cell and the wall is	
20 Q. So are they either all on or all off?		20 where air gets taken out of the cell?	
21 A. Yes.		21 A. I believe.	
22 Q. Does it -- if they are off, is it very dark in that		22 Q. You believe so. Great. Thank you.	
23 cell?		23 A. I'm not an HVAC guy so that's pure speculation on my	
24 A. Yes.		24 part.	
25 Q. Does the cell have any windows?		25 Q. I understand. I promise I'm asking this question to	

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9 (33 to 36)

	33		35
1	more people than yourself. Just trying to see what	1	<b>A. Correct.</b>
2	you understand. Okay. But to your knowledge, both	2	Q. And then the mirror would be reflecting behind this
3	hot and cold air is sent into the cell through the	3	privacy area?
4	ceiling vent, depending on the season?	4	<b>A. Yes. And in the corner.</b>
5	<b>A. Yes.</b>	5	Q. And on the next page, which is of cell one; right?
6	Q. Are there any cameras in the holding cells?	6	<b>A. Yes.</b>
7	<b>A. No.</b>	7	Q. Where is the mirror here?
8	Q. Do you know why not?	8	<b>A. Top left.</b>
9	<b>A. For the individual's privacy.</b>	9	Q. Okay. And where is the door?
10	Q. Are there any cameras in the hallways right outside	10	<b>A. It would be in line with the bench.</b>
11	the holding cells?	11	Q. Okay. So, similarly, when you open the door, you
12	<b>A. No.</b>	12	would see the bench, then you could look up to the
13	Q. Do you know why not?	13	mirror to see behind the privacy screen?
14	<b>A. No.</b>	14	<b>A. Yes.</b>
15	Q. Are -- okay. So you said there is a window in the	15	Q. Are there any microphones to pick up audio in a cell?
16	door to each of the cells; correct?	16	<b>A. No.</b>
17	<b>A. Yes.</b>	17	Q. Are there any speakers or intercoms to convey audio
18	Q. And a CBP officer could look in through that window to	18	messages into the cell?
19	see what's going on in the cell?	19	<b>A. No.</b>
20	<b>A. Yes.</b>	20	Q. Is there any sort of like buzzer system so that
21	Q. Can a CBP officer see the entire cell when he or she	21	somebody within the cell could hit a button to get
22	looks in through that window?	22	someone's attention?
23	<b>A. Yes.</b>	23	<b>A. No.</b>
24	Q. How can they see the entire cell?	24	Q. How do individuals who are in a cell get the attention
25	<b>A. If you look on the picture number one in the top right</b>	25	of CBP officers?
	34		36
1	<b>corner there's a mirror.</b>	1	<b>A. Generally by knocking on the door.</b>
2	Q. So where -- Would you agree with me that these photos	2	Q. And knocking on the door can be heard from out in the
3	are only partial photos of the cell; they don't	3	half?
4	capture everything?	4	<b>A. Yes.</b>
5	<b>A. Yes.</b>	5	Q. How far away can the knock be heard?
6	Q. Okay. So when you're looking at this first photo,	6	<b>A. Depends upon how hard they knock.</b>
7	which you said was cell two, is the door in	7	Q. Okay. So I guess an ordinary knock?
8	relationship to the mirror?	8	<b>A. Probably down towards the interview rooms you can hear</b>
9	<b>A. The opening on the picture in the bottom right-hand</b>	9	<b>somebody knocking on the door.</b>
10	<b>corner, the door would be opposite that.</b>	10	Q. How far away are the interview rooms?
11	Q. So --	11	<b>A. Ten, 15 feet, if, if that much.</b>
12	<b>A. No. It would be right here.</b>	12	Q. Are there CBP officers stationed in the hallway
13	Q. Oh, okay.	13	outside of the holding cells whenever somebody is in a
14	<b>A. I don't know how else to describe it.</b>	14	holding cell?
15	Q. Okay.	15	<b>A. No.</b>
16	MS. HOMER: So let the record reflect that	16	Q. How -- Are CBP officers like making rounds and
17	the witness is pointing to the bottom third.	17	checking in on the holding cells regularly?
18	THE WITNESS: It would be to the right of	18	<b>A. Yes.</b>
19	the bench behind the bench or in front of the bench as	19	Q. How often are CBP officers supposed to be checking in?
20	it's facing you.	20	<b>A. Every 15 minutes.</b>
21	BY MS. HOMER:	21	Q. So if I'm understanding this right, even if somebody
22	Q. Okay. So when you look in, you would see the bench to	22	knocks on the door from inside the cell and doesn't
23	your left?	23	get a CBP officer's attention, somebody should still
24	<b>A. Correct.</b>	24	be coming by within the next 15 minutes?
25	Q. And then you would see the mirror to your top right?	25	<b>A. Yes.</b>

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10 (37 to 40)

	37		39
1 Q. Do CBP officers ever intentionally ignore an individual knocking on the door?		1 A. <b>It would be to get an answer to a quick question.</b>	
2		2 Q. Have you ever conducted like a ten minute or more	
3 A. <b>No.</b>		3 questioning session in a holding cell?	
4 Q. If an individual in a cell is being really annoying and knocking constantly, would a CBP officer ignore that?		4 A. <b>No.</b>	
5		5 Q. What amenities are travelers provided with while in a	
6		6 holding cell?	
7 A. <b>No.</b>		7 A. <b>What do you mean by amenities?</b>	
8 Q. How would you describe the doors to these cells?		8 Q. That is a good question. Are they provided with	
9 A. <b>They're metal doors with a window.</b>		9 water?	
10 Q. Can you hear sound through them?		10 A. <b>There's a drinking fountain.</b>	
11 A. <b>Yes.</b>		11 Q. Okay. Do they ever request like bottled water	
12 Q. Can you hear an ordinary conversation through them?		12 instead?	
13 A. <b>I would have to talk maybe a little louder than normal but other than that.</b>		13 A. <b>No.</b>	
14		14 Q. Are travelers provided with food while in a holding	
15 Q. If someone was screaming at the top of their lungs, how far away down the hall would you be able to hear that?		15 cell?	
16		16 A. <b>Depends upon their length of stay in the cell.</b>	
17		17 Q. Is there a minimum length of stay after which CBP must	
18 A. <b>You'd be able to hear that in the lobby, at the very least.</b>		18 provide travelers with food?	
19		19 A. <b>Not that I'm aware of.</b>	
20 Q. If officers were having just a conversation in this tone of voice right outside the door, would you be able to hear the words of the conversation?		20 Q. You personally, when have you provided food to	
21		21 travelers in the cells?	
22		22 A. <b>I personally have not.</b>	
23 Q. Have you ever been locked in one of the cells?		23 Q. Okay. You have never brought food to somebody in a	
24		24 holding cell?	
25 A. <b>No.</b>		25 A. <b>No.</b>	
	38		40
1 Q. Have you ever been locked in one of the cells with an individual in the cell?		1 Q. Have you ever instructed someone else to bring food to	
2		2 somebody in a holding cell?	
3 A. <b>No.</b>		3 A. <b>No.</b>	
4 Q. Have you ever questioned an individual in a holding cell?		4 Q. Has a traveler ever asked you for food while they were	
5		5 in the holding cell?	
6 A. <b>Yes.</b>		6 A. <b>No.</b>	
7 Q. How common is that, to question an individual in the holding cell?		7 Q. Okay. And we mentioned earlier there are bathroom	
8		8 facilities in the cell including where travelers can	
9 A. <b>Not that common.</b>		9 wash their hands; right?	
10 Q. Why?		10 A. <b>Yes.</b>	
11 A. <b>Mostly it's because if we're doing an interview with somebody in a cell, we would take them to a secure interview area.</b>		11 Q. Are there any pillows in the cell?	
12		12 A. <b>No.</b>	
13		13 Q. If a traveler asked for a pillow, would they get one?	
14 Q. And where is the secured interview area?		14 A. <b>Doubtful.</b>	
15 A. <b>Ten to 15 feet down the hallway.</b>		15 Q. Are there any blankets in the cell?	
16 Q. And what makes the secured interview area different from a holding cell?		16 A. <b>No.</b>	
17		17 Q. If a traveler asked for a blanket would they get one?	
18 A. <b>More comfortable for everybody involved. A softer chair that they can sit in to talk to.</b>		18 A. <b>I doubt it.</b>	
19		19 Q. And why do you doubt it?	
20 Q. Are there cameras in the secure interview area?		20 A. <b>Because we don't want them to have anything they could</b>	
21 A. <b>Yes.</b>		21 injure themselves with.	
22 Q. On the occasions that you have questioned a traveler in the holding cell as opposed to taking them to the		22 Q. You mentioned earlier that jackets and outerwear are	
23		23 usually taken away from a traveler before they're	
24		24 placed in a holding cell?	
25 that?		25 A. <b>Yes.</b>	

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11 (41 to 44)

	41		43
1 Q.	If they ask for their jacket back, would they get it?	1 cells are?	
2 A.	<b>No.</b>	2 A.	<b>I don't know.</b>
3 Q.	Do travelers have access to any electronic devices of	3 Q.	Have you ever personally written down the current
4 theirs of any sort while they're in the cell?		4 temperature of a holding cell while an individual was	
5 A.	<b>No.</b>	5 in it?	
6 Q.	Are travelers who are detained in a holding cell	6 A.	<b>The current temperature, no. I've --</b>
7 provided any opportunity to contact their family?		7 Q.	Okay. And you paused there so have you ever written
8 A.	<b>No.</b>	8 down a temperature related to a holding cell?	
9 Q.	Are travelers detained in a holding cell provided any	9 A.	<b>I've selected a range.</b>
10 opportunity to contact a lawyer?		10 Q.	What do you mean by that?
11 A.	<b>No.</b>	11 A.	<b>The -- It -- It -- On the form, is the temperature</b>
12 (Whereupon Vanessa Mays entered the		12 between 65 and 75. Again I believe 75 is the top but	
13 deposition room.)		13 I'm not sure.	
14 BY MS. HOMER:		14 Q.	What form are you talking about?
15 Q.	To your knowledge, is there a required temperature	15 A.	<b>On the I-216.</b>
16 that holding cells are required to be maintained at?		16 Q.	Do you have any idea what that stands for?
17 A.	<b>I believe it's between 65 degrees and 75 but I'm not</b>	17 A.	<b>Immigration Form 216.</b>
18 sure.		18 Q.	And the Immigration Form 216 has a place to record the
19 Q.	Do you know who is responsible for ensuring that	19 temperature of holding cell in it?	
20 holding cells are actually within that range?		20 A.	<b>Yes.</b>
21 A.	<b>No.</b>	21 MS. HOMER: Can we take a break for a	
22 Q.	Have you personally ever checked the temperature of a	22 second?	
23 holding cell while an individual was detained in it?		23 MR. CARTY: Sure.	
24 A.	<b>No.</b>	24 (Off the record at 11:09 a.m.)	
25 Q.	Is there any system for logging the actual temperature	25 (Whereupon Vanessa Mays exited the	
	42		44
1 of holding cells while individuals are detained in it?		1 deposition room.)	
2 A.	<b>We have a system for logging the temperature of the</b>	2 (Back on the record at 11:18 a.m.)	
3 cell.		3 BY MS. HOMER:	
4 Q.	How does that system work?	4 Q.	So before we took a break, we were talking about a
5 A.	<b>It's basically you check whether the temperature is</b>	5 Form I-216; correct?	
6 between 65 and I think 75.		6 A.	<b>Correct.</b>
7 Q.	And how does CBP -- how do CBP officers check the	7 Q.	And is that the form Record of Persons and Property
8 actual temperature of the cell?		8 Transferred?	
9 A.	<b>The actual temperature of the cell would be based on</b>	9 A.	<b>No.</b>
10 -- If it's cold in the cell, it's cold in the		10 Q.	No? Okay.
11 interview rooms, so that would be basically how we		11 A.	<b>No.</b>
12 determine.		12 Q.	Okay. Is that form only used in conjunction with
13 Q.	Okay. So are CBP officers required to check the	13 aliens that are held by CBP?	
14 temperature during their like 15 minute check-ins?		14 A.	<b>No.</b>
15 A.	<b>No. We check on the traveler to make sure he's okay.</b>	15 Q.	Can you describe the form for me?
16 Q.	Okay. So under what circumstances would a CBP officer	16 A.	<b>It's an electronic form.</b>
17 be looking at the temperature of a cell?		17 Q.	It's an electronic form?
18 A.	<b>I couldn't tell you.</b>	18 A.	<b>(Indicating in the affirmative).</b>
19 Q.	And you mentioned earlier that you thought the	19 Q.	And what other information does it ask for?
20 upstairs thermostat controlled the temperature in the		20 A.	<b>Is water available, whether the person was admitted or</b>
21 downstairs cells; is that right?		21 turned over to another agency or refused entry.	
22 A.	<b>That's what I've been told.</b>	22 MS. HOMER: I'd just like to know for the	
23 Q.	Okay. So is there any like routine or daily process	23 record -- I don't think I've seen this form, so if I	
24 by which a CBP officer goes and checks the upstairs		24 could ask either defendants' counsel or CBP counsel to	
25 thermostat to determine what the temperature in the		25 produce it, I would appreciate that. Okay.	

Transcript of Scott Rocky  
Conducted on September 27, 2019

12 (45 to 48)

	45		47
1 BY MS. HOMER:		1 A. No.	
2 Q. Are there any other forms used with respect to		2 Q. Have you ever stepped into a cell when you were	
3 individuals in holding cells that would record the		3 detaining someone in it and kind of felt to yourself,	
4 temperature of the cell?		4 "Huh, it feels a little cold in here"?	
5 A. No.		5 A. No.	
6 Q. On this I-216 form is the temperature only recorded		6 Q. Have you ever stepped into a cell where you're	
7 once or is it updated regularly?		7 detaining someone and thought, "Huh, it feels a little	
8 A. Once.		8 hot in here"?	
9 Q. At what point is it recorded?		9 A. No.	
10 A. When we initiate the form.		10 Q. Have you ever heard any complaints that the conditions	
11 Q. Okay. And do you initiate the form when an individual		11 a traveler was being held in in one of the Ambassador	
12 is first placed in the cell?		12 Bridge holding cells were unsafe?	
13 A. Yes.		13 A. No.	
14 Q. So you would not record the temperature when the		14 MS. HOMER: Let me mark Exhibit 2.	
15 individual is ultimately released from the cell later?		15 MARKED FOR IDENTIFICATION:	
16 A. No.		16 DEPOSITION EXHIBIT 2	
17 Q. Aside from the -- Actually, let me back up. Is the		17 11:23 a.m.	
18 I-216 form always used with any individual placed in a		18 BY MS. HOMER:	
19 holding cell?		19 Q. Mr. Rocky, are you familiar with this document?	
20 A. Yes.		20 A. I just received it. I haven't looked through it.	
21 Q. Was it in use in 2015?		21 Q. Yes. Please take a moment to read through it.	
22 A. No.		22 A. I'm generally familiar with this, yes.	
23 Q. When was it first introduced?		23 Q. How would you describe this document?	
24 A. I believe that was 2017.		24 A. Our standard operating procedure for dealing with	
25 Q. Do you know why it was introduced?		25 people that were detained.	
	46		48
1 A. No.		1 Q. And was this the standard operating procedure in 2015?	
2 Q. Prior to 2017, in your time at the Ambassador Bridge,		2 To the best of your knowledge?	
3 are you aware of any form that required CBP officers		3 A. To the best of my knowledge.	
4 to record the temperatures in a holding cell?		4 Q. Can you turn to the last two or three pages of where	
5 A. No.		5 it says Personal Detention Log Sheet?	
6 Q. Are you aware of any mechanism for logging the		6 A. Yes.	
7 temperature of a holding cell that CBP officers were		7 Q. Do you recognize that form?	
8 using at all?		8 A. Yes.	
9 A. No.		9 Q. Is this form different than the I-216 you were talking	
10 Q. Did you ever receive any complaints that a holding		10 about earlier?	
11 cell was too hot?		11 A. Yes.	
12 A. No.		12 Q. Does the Personal Detention Log Sheet require an	
13 Q. Did you ever receive any complaints that a holding		13 officer to record the temperature of a detention cell?	
14 cell was too cold?		14 A. No.	
15 A. No.		15 Q. Is this form still in use at the Ambassador Bridge	
16 Q. Since 2017 has there ever been a time that you checked		16 today?	
17 the temperature of a holding cell and concluded that		17 A. No.	
18 it fell outside the guidelines set by CBP?		18 Q. Has this form been replaced by the I-216 you	
19 A. No.		19 mentioned?	
20 Q. Have you ever refused to put an individual in a		20 A. Yes.	
21 holding cell because the cell was not at an		21 Q. Yes. I mean, are there other forms? Let me just ask	
22 appropriate temperature?		22 this better. What form is used right now for	
23 A. No.		23 individuals in detention cells at the Ambassador	
24 Q. Have you put an individual in a cell knowing it was		24 Bridge?	
25 not an appropriate temperature?		25 A. It's an electronic form.	

Transcript of Scott Rocky  
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13 (49 to 52)

	49		51
1	Q. So how recently did the Ambassador Bridge start using 2 an electronic form for individuals in detention cells?	1	<b>A. Yes.</b>
3	<b>A. In the past couple of years.</b>	2	Q. Okay. And then they each correspond like 1 to 1, 2 to 3 2, 3 to 3; right?
4	Q. In 2015 was CBP using paper forms for individuals in 5 detention cells?	4	<b>A. Yes.</b>
6	<b>A. Yes.</b>	5	Q. So the first check-in, the officer would fill in both 6 1 boxes?
7	Q. And this was the paper form they were using?	7	<b>A. Yes.</b>
8	<b>A. Yes.</b>	8	Q. And one of those boxes, would he fill it in with like 9 a description of what he saw?
9	Q. Where -- Okay. You personally have escorted 10 individuals to a detention cell and secured them in 11 that cell; correct?	10	<b>A. Yes.</b>
12	<b>A. Yes.</b>	11	Q. And then the other 1 box on the right, he would fill 12 in the time and his initials?
13	Q. In the process of securing someone in a detention 14 cell, where and how does this form come into play?	13	<b>A. Yes.</b>
15	MR. ANCHILL: Objection, form, compound.	14	Q. Okay. And then the next officer would come in and 15 fill in the 2 box with the same sort of information?
16	BY MS. HOMER:	16	<b>A. Correct.</b>
17	Q. You can answer.	17	Q. Once an individual was released from the holding cell, 18 what happens to the paper form?
18	<b>A. This form would be used when we place somebody in 19 detention immediately upon, after we completed a pat- 20 down on the individual and closed the door.</b>	19	<b>A. The paper form should be attached to whatever 20 paperwork was generated for the reason he was in the 21 cell.</b>
21	Q. What does a pat-down entail?	22	Q. Okay. And with that bundle of paperwork, where does 23 it go?
22	<b>A. Checking to make sure they have no contraband items on 23 themselves.</b>	24	<b>A. That would get filed in our office.</b>
24	Q. Okay. And is the pat-down also where like the excess 25 clothing and jewelry is removed?	25	Q. In the supervisor's office?
	50		52
1	<b>A. Yes. We would remove down to their shirt. Like we 2 would take off a jacket or a sweater that they had 3 over a shirt.</b>	1	<b>A. It is kept in one of the -- The filing system was kept 2 in one of the interview rooms.</b>
4	Q. Okay. And is that part of the pat-down or is there a 5 different word used?	3	Q. So there was a filing system in an interview room with 4 all of the detention paperwork packets for everyone 5 detained at the Ambassador Bridge?
6	<b>A. That's part of.</b>	6	<b>A. Correct.</b>
7	Q. Okay. Where would a CBP officer pick up a physical 8 copy of this form when they're detaining an 9 individual?	7	Q. Okay. And to your knowledge were those paper files 8 ever scanned in and digitized?
10	<b>A. They were kept on clipboards by the detention cells.</b>	9	<b>A. After one month they were moved to another facility.</b>
11	Q. Okay. So on -- outside the door of the detention 12 cell?	10	<b>A. I don't know what happened after that.</b>
13	<b>A. Yes.</b>	11	Q. Do you know what facility they were moved to?
14	Q. Where there's just blank copies of this form?	12	<b>A. No.</b>
15	<b>A. Yes.</b>	13	Q. And do you know if before the paperwork was moved to a 14 different facility they would be scanned at the 15 Ambassador Bridge or otherwise digitized?
16	Q. And so when an individual was placed in it, would the 17 CBP officer then start filling it out?	16	<b>A. No, not to my knowledge.</b>
18	<b>A. Yes.</b>	17	Q. Have you ever seen a digital copy of a complete 18 detention paperwork file?
19	Q. Would the CBP officer update additional information on 20 this form every time a check-in happened?	19	<b>A. No.</b>
21	<b>A. Yes.</b>	20	Q. And then you stated that the paperwork files were only 21 held at the Ambassador Bridge for a month at a time?
22	Q. And where would the time of each check-in be recorded?	22	<b>A. Month, maybe two months at the tops.</b>
23	<b>A. It would be on the boxes on the right.</b>	23	Q. Okay. So they don't have, for example, every record 24 of every detention going back five years on site at 25 the Ambassador Bridge?

Transcript of Scott Rocky  
Conducted on September 27, 2019

14 (53 to 56)

	53		55
1 Q. Okay. And you said that officers are supposed to check in on the cells every 15 minutes; correct?		1 Q. Have you ever heard CBP border facilities described as an icebox?	
2 A. Correct.		2 A. No.	
3 Q. Have you -- And you have been the officer performing those 15 minute check-ins?		4 Q. Have you ever heard CBP border facilities described as a freezer?	
4 A. I have.		5 A. No.	
5 Q. Okay. Have you ever gone to do your 15 minute check-in and looked at this form and realized it had been, let's say, 30 minutes or more since the last check-in?		6 Q. Have you ever heard of any investigations into the temperatures at which CBP maintains its facilities?	
6 Q. Okay. Have you ever been aware of complaints about officers not performing the required check-ins?		7 Q. Have you ever heard of any investigations into the temperature control systems at the Ambassador Bridge?	
7 A. No.		8 A. No.	
8 Q. Have you ever seen a form of a detention log sheet where there's a long gap, like let's say an hour or more between officers checking in?		9 Q. Do you have any social media accounts?	
9 A. Not that I recall.		10 Q. Do you have a Facebook account?	
10 Q. Are you aware of any discipline against any officer for failing to conduct and log one of those 15 minute check-ins?		11 Q. Do you have a Twitter account?	
11 A. No.		12 Q. Do you have an Instagram account?	
12 Q. You were familiar with what TECS records are; right?		13 Q. Just because I have a Facebook account.	
13 A. Yes.		14 Q. Okay. Any other major social media?	
14 Q. Do you know whether the information contained on these detention logs is ever incorporated into a TECS record?	54	15 Q. No.	
15 A. No.		16 Q. Okay. Are you aware of a Facebook group called I'm 10-15?	
16 Q. Have you ever seen that happen?		17 Q. Just what I've read in the news.	
17 A. No.		18 Q. Have you ever been a member of the Facebook group called I'm 10-15?	
18 Q. Have you personally ever lost a detention log sheet?		19 Q. No.	
19 A. No.		20 Q. Have you ever been a member of any Facebook group where a large number of CBP officers are also members of that group?	
20 Q. Would it concern you if a detention log sheet had gone missing?		21 Q. No.	
21 Q. And it's important to maintain accurate records?		22 Q. Okay. Are you aware if any of your co-workers have been a member of the Facebook group I'm 10-15?	
22 A. Yes.		23 Q. No.	
23 Q. Have you ever heard the Spanish phrase hialera, spelled h-i-a-l-e-r-a?		24 Q. Have you ever been party to any conversation among your co-workers about CBP facilities having very cold temperatures?	
24 Q. Okay. You've never heard it in any context?		25 Q. No.	
25 A. No.		26 Q. Is there a -- Back up. Is there any sort of medical professional on site at the Ambassador Bridge?	
		27 Q. We have EMTs that are regularly rotated through.	
		28 Q. Okay. And are those private EMTs or CBP EMTs?	
		29 Q. CBP EMTs.	
		30 Q. And how long has it been the case that CBP has had EMTs that rotate through the facility?	
		31 Q. Three, maybe four years.	
		32 Q. Okay. Did CBP have EMTs rotating through the Ambassador Bridge in 2015?	
		33 Q. No.	

Transcript of Scott Rocky  
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15 (57 to 60)

	57		59
1 Q. Do you know why CBP now has EMTs on site?		1 A. <b>That is correct.</b>	
2 A. <b>I believe it's a recent program that CBP started but I</b>		2 Q. Before Elhady were you personally involved in any	
3 <b>couldn't say for sure.</b>		3 medical situations with travelers in CBP?	
4 Q. You had no input in the decision to start that		4 A. <b>Not that I can recollect.</b>	
5 program?		5 Q. Is it CBP's practice to always call either their on-	
6 A. <b>No.</b>		6 site EMT or 911 if a traveler requests medical	
7 Q. Do you think that having EMTs rotating on site has		7 assistance?	
8 improved CBP's medical responses for travelers?		8 A. <b>Yes.</b>	
9 A. <b>Yes.</b>		9 Q. Does -- Okay. We're going to talk about Elhady now.	
10 Q. Why?		10 MS. HOMER: Can you mark Exhibit 3?	
11 A. <b>Don't have to wait on an EMS to show if there's a</b>		11 MARKED FOR IDENTIFICATION:	
12 <b>medical problem.</b>		12 DEPOSITION EXHIBIT 3	
13 Q. Okay. And prior to the CBP system of having EMTs on		13 11:41 a.m.	
14 site, can you describe what the process was for		14 BY MS. HOMER:	
15 procuring medical help for travelers?		15 Q. Okay. Mr. Rocky, do you recognize this picture?	
16 A. <b>We would call 911 I believe.</b>		16 A. <b>No.</b>	
17 Q. And what happened when you called 911? Would there be		17 Q. Do you recognize the face of the person in this	
18 a delay?		18 picture?	
19 A. <b>I've never called 911 myself.</b>		19 A. <b>No.</b>	
20 Q. So you personnel have ever called 911 in your		20 Q. Do you have any memory of any interactions with the	
21 responsibilities as a CBP officer?		21 individual in this picture?	
22 A. <b>That's correct.</b>		22 A. <b>No.</b>	
23 Q. Have you ever been part of a group of CBP officers		23 Q. Okay. Set it aside. Do you know who Anas Elhady is?	
24 where one of the officers called 911 related to a		24 A. <b>Yes.</b>	
25 medical emergency?		25 Q. And how do you know Anas Elhady?	
	58		60
1 A. <b>No.</b>		1 A. <b>I encountered him in 2015 as an officer.</b>	
2 Q. Have you heard complaints prior to CBP having EMTs on		2 Q. And describe to me what you remember at a high level	
3 site about their response times to 911 calls?		3 about that encounter?	
4 A. <b>No.</b>		4 A. <b>I encountered him while doing a cell check. He</b>	
5 Q. Is there a protocol about how CBP officers are to		5 <b>requested medical assistance and we had him taken to</b>	
6 respond to medical complaints by travelers?		6 <b>the hospital.</b>	
7 A. <b>I don't know if there is a formal protocol.</b>		7 Q. Okay. So a cell check. Is this what we were talking	
8 Q. Okay. Have you ever encountered a situation where a		8 about earlier, where CBP officers check in every 15	
9 traveler was requesting medical assistance?		9 minutes?	
10 A. <b>Yes.</b>		10 A. <b>Yes.</b>	
11 Q. And what have you done?		11 Q. Do you remember seeing his detention log during that	
12 A. <b>I went to the supervisor with the information.</b>		12 cell check?	
13 Q. Approximately how many times has that happened? Is it		13 A. <b>Yes.</b>	
14 like a once a month thing? A once a year thing?		14 Q. And do you remember anything about that detention log?	
15 A. <b>Once every three, four years maybe.</b>		15 Was it filled out?	
16 Q. Okay.		16 A. <b>I don't remember details. I remember that I would</b>	
17 A. <b>For myself personally.</b>		17 <b>have put my name down on there and put the time and</b>	
18 Q. What situations do you remember where a traveler has		18 <b>requested medical assistance.</b>	
19 requested or needed medical assistance?		19 Q. But you don't remember any of the other specific	
20 A. <b>The last time that I'm aware of is actually with</b>		20 times --	
21 <b>Elhady.</b>		21 A. <b>No.</b>	
22 Q. So since Elhady in 2015, you are not aware of -- Let		22 Q. -- on the log?	
23 me scratch that. Since Elhady in 2015, you have not		23 A. <b>No.</b>	
24 been personally involved in a situation where a		24 Q. Or any of the other officers who may have been on the	
25 traveler requested medical attention from CBP?		25 log?	

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16 (61 to 64)

	61		63
1 A. No.		1 A. At that point I did not.	
2 Q. You testified earlier that you usually came on shift		2 Q. Did you later come to learn what other CBP officers	
3 around 6:00 a.m.?		3 had been working on with respect to Mr. Elhady?	
4 A. Yes.		4 A. Yes.	
5 Q. Do you remember when in your shift you performed the		5 Q. What had they been working on with respect to Mr.	
6 cell check on Anas Elhady?		6 Elhady?	
7 A. It would have been right at the beginning of my shift.		7 MR. GOULDING: The answer to that question	
8 Q. And when you say right at the beginning, like within		8 may be privileged so I'm going to direct you -- I'm	
9 the first 15 minutes?		9 going to assert the privilege and I'm going to direct	
10 A. Within the first 15 minutes.		10 you not to answer that or at least to -- We can step	
11 Q. What do you remember from the moment you performed the		11 outside and I can preview the answer and advise you if	
12 check?		12 there's any part that you can answer.	
13 A. Right when I performed the check?		13 MS. HOMER: Let's take a quick break for	
14 Q. Yeah. Like did you look in through the window? Did		14 you to do that.	
15 you open the door?		15 MR. GOULDING: Okay.	
16 A. I looked in through the window. "How are you doing?"		16 (Off the record at 11:47 a.m.)	
17 He said his back was hurting, and I asked him if he		17 (Back on the record at 11:48 a.m.)	
18 needed to see a doctor, and he said yes.		18 MR. ANCHILL: We're back on the record. We	
19 Q. Did he say anything other than his back hurting that		19 have previewed the witness's answer and it's	
20 you remember?		20 privileged.	
21 A. No.		21 MR. GOULDING: That's correct. The agency	
22 Q. Did you talk to him through the window?		22 is asserting the law enforcement privilege and has	
23 A. Yes.		23 directed the witness not to answer.	
24 Q. Okay. Did you open the door?		24 MS. HOMER: Okay.	
25 A. No.		25 BY MS. HOMER:	
	62		64
1 Q. So after Mr. Elhady said he needed to see a doctor,		1 Q. And are you going to follow your counsel's instruction	
2 what did you do?		2 and not answer?	
3 A. I want to the supervisors and informed them.		3 A. (Indicating in the affirmative).	
4 Q. Who were the supervisors at the time?		4 Q. Can you say yes verbally?	
5 A. I couldn't tell you who the supervisor was on shift at		5 A. Yes. Sorry.	
6 that point.		6 Q. Thank you. After you told the CBP supervisor on duty	
7 Q. And how did the supervisor respond to you saying that		7 that Mr. Elhady needed medical attention, what	
8 Mr. Elhady needed medical attention?		8 happened?	
9 A. They said that we can get him medical attention but		9 A. The supervisor told me that we can get him to the	
10 let him know that he'll probably be out of here in ten		10 hospital but that he would be released in probably	
11 minutes, ten, 15 minutes.		11 ten, 15 minutes.	
12 Q. And what did they mean by out of here?		12 Q. Did you relay that message, that his release was	
13 A. That his detention would be over and he would be		13 imminent, to Mr. Elhady?	
14 released.		14 A. Yes, I did.	
15 Q. Do you have any idea why his detention was going to be		15 Q. And how did Mr. Elhady respond?	
16 over in ten to 15 minutes?		16 A. He said he wanted to go to the hospital.	
17 A. Specifically, no.		17 Q. Okay. And what happened next?	
18 Q. Do you have any like general understanding as to why		18 A. I went back down, told the supervisor. They called	
19 his detention would be over in ten to 15 minutes?		19 EMS.	
20 A. Probably because it was getting closed out.		20 Q. After EMS was called, did you then go back to Mr.	
21 Q. And do you know why his detention would be getting		21 Elhady?	
22 closed out?		22 A. I'm not sure.	
23 A. Because they were done with whatever they were working		23 Q. Okay. Let me start over. After EMS was called --	
24 on.		24 Well, let me back up. Do you remember who placed the	
25 Q. Do you know what they were working on?		25 phone call to EMS?	

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17 (65 to 68)

	65		67
1 A. <b>It would have been a supervisor that was on shift.</b>		1 Q. That's spelled K-e-h-r; right?	
2 Q. What did you do after the phone call was placed to		2 A. <b>Yes.</b>	
3 EMS?		3 Q. And what is your understanding as to why one CBP	
4 A. <b>To the best of my recollection, I went down there and</b>		4 officer was in the ambulance and you, another CBP	
5 <b>informed him that EMS was on the way.</b>		5 officer, were in a separate vehicle?	
6 Q. Did Mr. Elhady remain in the holding cell while EMS		6 A. <b>Mr. Elhady was still under our detention and we had an</b>	
7 was on its way?		7 <b>officer ride to make sure that he was safe, and I</b>	
8 A. <b>Yes.</b>		8 <b>followed because they have to get back to the port</b>	
9 Q. At what point was Mr. Elhady removed from the holding		9 <b>s somehow.</b>	
10 cell?		10 Q. And by they did you mean --	
11 A. <b>When EMS arrived on site, they would have gone back to</b>		11 A. <b>Officer --</b>	
12 <b>the cell. I believe at that point I wasn't in the</b>		12 Q. -- the officer?	
13 <b>building to know the exact --</b>		13 A. <b>Officer Elhady -- I'm sorry. Officer Kehr and Elhady.</b>	
14 Q. Okay. Did you personally let Mr. Elhady out of the		14 Q. Now, where did you follow them to?	
15 holding cell?		15 A. <b>Detroit Receiving Hospital.</b>	
16 A. <b>No.</b>		16 Q. Okay. And then did you park outside Detroit Receiving	
17 Q. Did you personally interact with Mr. Elhady as he was		17 Hospital?	
18 leaving the holding cell and being handed over to EMS?		18 A. <b>Yes.</b>	
19 A. <b>No.</b>		19 Q. Did you go inside the hospital?	
20 Q. After Mr. Elhady was removed from the holding cell,		20 A. <b>Yes.</b>	
21 did you have more interactions with Mr. Elhady?		21 Q. Did you interact with Mr. Elhady inside the hospital?	
22 A. <b>Direct interaction?</b>		22 A. <b>No.</b>	
23 Q. I mean, yes.		23 Q. Did you wait in the lobby inside the hospital?	
24 A. <b>No.</b>		24 A. <b>No.</b>	
25 Q. Okay. Did you accompany Mr. Elhady to the hospital?		25 Q. Okay. What did you do inside the hospital?	
	66		68
1 A. <b>I followed the ambulance.</b>		1 A. <b>They took Mr. Elhady up to a private area. Officer</b>	
2 Q. Okay. Who assigned you to follow the ambulance?		2 <b>Kehr and myself, we stayed outside the curtained area</b>	
3 A. <b>It would have been whatever supervisor was on at that</b>		3 <b>that Mr. Elhady was in.</b>	
4 <b>point.</b>		4 Q. So Mr. Kehr did not go inside this private area with	
5 Q. Were you in your own vehicle or a CBP vehicle?		5 Mr. Elhady either?	
6 A. <b>I was in a CBP vehicle.</b>		6 A. <b>I believe --</b>	
7 Q. What type of vehicle was it?		7 Q. To your memory?	
8 A. <b>It was a transport van.</b>		8 A. <b>I believe that when Mr. Elhady was transferred to the</b>	
9 Q. Was there a specific make and model of the CBP		9 <b>hospital bed, that Officer Kehr went in to unlock</b>	
10 transport vans?		10 <b>handcuffs and handcuff him to the hospital bed.</b>	
11 A. <b>I couldn't tell you.</b>		11 Q. Was Mr. Elhady, to your knowledge, handcuffed inside	
12 Q. Was anyone else in the vehicle with you?		12 the ambulance?	
13 A. <b>No.</b>		13 A. <b>Yes.</b>	
14 Q. Were there any CBP officers in the ambulance with Mr.		14 Q. Was Mr. Elhady handcuffed while transferring him from	
15 Elhady?		15 the ambulance to inside the hospital?	
16 A. <b>Yes.</b>		16 A. <b>Yes.</b>	
17 Q. Do you remember their names?		17 Q. Was Mr. Elhady handcuffed at all points while in the	
18 A. <b>Yes.</b>		18 hospital?	
19 Q. What were their names?		19 A. <b>Yes.</b>	
20 A. <b>That would have been Officer Kehr.</b>		20 Q. Was he handcuffed when he eventually left the hospital	
21 Q. Okay. So to your knowledge there was one CBP officer		21 to return to the Ambassador Bridge?	
22 in the ambulance with Mr. Elhady?		22 A. <b>Yes.</b>	
23 A. <b>Yes.</b>		23 Q. Did you personally witness any of the medical	
24 Q. And that was Officer Kehr?		24 treatment Mr. Elhady received while at Detroit	
25 A. <b>Correct.</b>		25 Receiving Hospital?	

## Transcript of Scott Rocky

18 (69 to 72)

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	69		71
1 A. From my angle, I could see a very limited view inside the curtained area.		1 Q. Then what happened?	
3 Q. Could you hear nurses or doctors talking to Mr. Elhady?		2 A. To the best of my ability to recall, we pulled up next to his vehicle and let him know he was free to go.	
5 A. I could hear the doctor.		4 Q. And how had you become aware that he was free to go?	
6 Q. Do you remember which doctor it was?		5 A. I think Officer Kehr contacted the port to let them know we were on the way back.	
7 A. No.		7 Q. And then, to your knowledge, the port told Mr. Kehr that Mr. Elhady was free to go when he got back?	
8 Q. Do you remember what, like the gist of the conversation that the doctor had with Mr. Elhady?		9 A. Yes.	
10 A. "Push your feet down against my hands. Press your legs up towards the ceiling against my hands."		10 Q. Did that happen while you were driving with Mr. Elhady back to the port?	
12 Q. Did you hear any of Mr. Elhady's descriptions of his medical problems to the doctor?		12 A. I don't know if it was before we started up the van or while we were on the way. I don't recall.	
14 A. No.		14 Q. During the transport back from the hospital to the port, did you personally have any conversations with Mr. Elhady?	
15 Q. Did you hear any diagnoses from the doctor to Mr. Elhady?		17 A. No.	
17 A. No.		18 Q. Did Mr. Kehr have any conversations with Mr. Elhady?	
18 Q. Do you remember approximately how long Mr. Elhady was at the hospital?		19 A. Not that I can recall.	
20 A. Not off the top of my head.		20 Q. Do you recall having any conversations with Mr. Elhady while you were at the hospital?	
21 Q. Was Mr. Elhady eventually released from the hospital?		22 A. No.	
22 A. Yes.		23 Q. Do you have any memory of Mr. Elhady complaining about the holding cell itself he had been in?	
23 Q. And how did he get back to the Ambassador Bridge?		25 A. He may have said something about how hard the wooden	
24 A. In our detention van or transport van.			
25 Q. This is the van that you had driven over?	70		72
1 A. Yes.		1 A. benches were.	
2 Q. Is -- is the van like separated? Is there a wall between the drivers and the people in the back?		2 Q. Do you have any memory of Mr. Elhady complaining about the cell being cold?	
4 A. Yes.		4 A. No.	
5 Q. Okay. So you were in the front driving?		5 Q. After you and Mr. Kehr let Mr. Elhady go, have you ever interacted with Mr. Elhady again --	
6 A. Yes.		7 A. No.	
7 Q. Was Mr. Kehr and Mr. Elhady in the back?		8 Q. -- to your knowledge? Do you remember the names of any other CBP personnel that you interacted with during the course of this interaction with Mr. Elhady?	
8 A. Officer Kehr would have been in the front seat with me.		11 A. Do you mean the interaction going to the hospital?	
10 Q. Okay. Officer Kehr was in the front seat with you while you were driving?		12 Q. Yeah. That was a bad question. Let me start over.	
12 A. Correct.		13 Q. Okay. So do you remember the names of any of the supervisors you were communicating with about Mr. Elhady on the day in question?	
13 Q. And then there's a wall?		16 A. At this time, no.	
14 A. Yes.		17 Q. Okay. Did you communicate with any government officials that did not work for CBP about Mr. Elhady on this day?	
15 Q. That I assume is for the security of the officers?		20 MR. GOULDING: I'm going to -- I'm sorry.	
16 A. Right.		21 Can you rephrase -- can you repeat it or --	
17 Q. And then Mr. Elhady was in the back?		22 MS. HOMER: Yeah.	
18 A. Yes.		23 BY MS. HOMER:	
19 Q. Was Mr. Elhady handcuffed in the back?		24 Q. Did you communicate with any government officials who were not CBP employees about Mr. Elhady on the day of	
20 A. Yes.			
21 Q. Was anyone else with Mr. Elhady in the back?			
22 A. No.			
23 Q. Then you arrived back at the Ambassador Bridge; correct?			
25 A. Correct.			

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19 (73 to 76)

	73		75
1	this medical incident with Mr. Elhady?	1	Q. Do you have any knowledge about what any of the
2	MR. GOULDING: Objection, scope, law	2	information that is behind the black bars might be?
3	enforcement privilege and I'll direct the witness not	3	<b>A. No.</b>
4	to answer.	4	Q. Reviewing this record, does it trigger any fresh
5	BY MS. HOMER:	5	memories in you about what happened on April 11th,
6	Q. You talked about earlier that you were familiar with	6	2015 with respect to Mr. Elhady?
7	the TECS system?	7	<b>A. Other than apparently I was the one that called back</b>
8	<b>A. Yes.</b>	8	<b>to the Ambassador Bridge from the hospital, no.</b>
9	Q. Does TECS contain records of primary inspections?	9	Q. So if you turn to -- it's the third physical piece of
10	<b>A. No.</b>	10	paper and in the bottom right corner it says CBP-0241.
11	Q. Does TECS contain records from secondary inspections?	11	Do you see that page?
12	<b>A. Yes.</b>	12	<b>A. Yes.</b>
13	Q. Have you previously reviewed any of the secondary	13	Q. Okay. So you see at the top where it says that the
14	inspection TECS records related to Anas Elhady?	14	Referred Time was 1:43 Eastern Daylight Time?
15	<b>A. Just the one that was forwarded to me.</b>	15	<b>A. Yes.</b>
16	MS. HOMER: Can we mark Exhibit 4?	16	Q. See that? Would you have been on duty at that time?
17	MARKED FOR IDENTIFICATION:	17	<b>A. No.</b>
18	DEPOSITION EXHIBIT 4	18	Q. Okay. To the best of your understanding, when would
19	12:01 p.m.	19	you have reported for duty on this day?
20	BY MS. HOMER:	20	<b>A. 6:00 a.m.</b>
21	Q. And then take a moment to flip through that. Have you	21	Q. Now, if you flip four more pages back to where it says
22	had a moment to review this?	22	CBP-0244 in the bottom right corner.
23	<b>A. Yes.</b>	23	<b>A. Yes.</b>
24	Q. Do you recognize this document?	24	Q. Do you see that page? Okay. I'm looking about
25	<b>A. I'm sorry?</b>	25	halfway down the material that's printed on the page
	74		76
1	Q. Do you recognize this document?	1	right beneath the biggest black box where it says.
2	<b>A. Yes.</b>	2	"Elhady complained of back pain, coldness and
3	Q. What is it?	3	requested Emergency Medical Services to be called."
4	<b>A. This is a TECS printout.</b>	4	Do you see that?
5	Q. And who is the TECS printout of, or about?	5	<b>A. Yes.</b>
6	<b>A. Mr. Elhady.</b>	6	Q. Does that refresh your recollection that Elhady was
7	Q. And have you reviewed this TECS printout before?	7	also complaining of coldness?
8	<b>A. Yes.</b>	8	<b>A. No.</b>
9	Q. You see that throughout this TECS printout there are	9	Q. You have no memory of Elhady complaining of coldness?
10	black bars?	10	<b>A. No.</b>
11	<b>A. Yes.</b>	11	Q. Did you write that sentence?
12	Q. What do you understand those black bars to be?	12	<b>A. No.</b>
13	<b>A. Redacted information.</b>	13	Q. Is there any portion of this TECS record that was like
14	Q. Have you ever seen a version of Anas Elhady's TECS	14	physically written by you?
15	report that did not have this information?	15	<b>A. No.</b>
16	<b>A. I don't remember.</b>	16	Q. Do you know who would have written up this report?
17	Q. Do you have any knowledge about -- for example, on	17	<b>A. I believe it would have been Officer Bradley.</b>
18	page 1, where it says Reason for Search and then it's	18	Q. And what is the basis for that belief?
19	redacted below that, do you have any knowledge about	19	<b>A. He is named on the front of the form, Created by</b>
20	what that information on the Reason for Search might	20	<b>Officer.</b>
21	be?	21	Q. And so based on your understanding of TECS records,
22	MR. GOULDING: I'll direct the witness he's	22	all of the like written memoranda contained within
23	permitted to answer that only yes or no.	23	this report was written by Officer Bradley?
24	THE WITNESS: No.	24	<b>A. Yes.</b>
25	BY MS. HOMER:	25	Q. Okay. So the next line underneath where Elhady was

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20 (77 to 80)

	77		79
1	complaining -- we're back on CBP-0244 -- it says,	1	So the next sentence after the watch commander says,
2	"Watch Commander notified of Elhady's complaint." Do	2	"EMS called to respond to Detroit Ambassador Bridge."
3	you see that?	3	Do you see that?
4	<b>A. Yes.</b>	4	<b>A. Yes.</b>
5	Q. Were you the individual who notified the watch	5	Q. And then, as we discussed earlier, you did not
6	commander?	6	personally make the phone call to EMS; correct?
7	<b>A. No.</b>	7	<b>A. Correct.</b>
8	Q. Do you know who was the individual who notified the	8	Q. Do you know who did?
9	watch commander?	9	<b>A. No.</b>
10	<b>A. No.</b>	10	Q. Right beneath that it says, "Hart Medical EMS arrived
11	Q. Do you know who the watch commander was at the time?	11	at AMB." Do you see that?
12	<b>A. No.</b>	12	<b>A. Yes.</b>
13	Q. Where in the CBP hierarchy does a watch commander	13	Q. And Hart Medical, they're an ambulance company?
14	fall?	14	<b>A. Yes.</b>
15	<b>A. In between a chief and an assistant port director I</b>	15	Q. Have you had any interactions with them besides this
16	<b>believe.</b>	16	day?
17	Q. Okay. So you would have reported to a supervisor?	17	<b>A. No.</b>
18	<b>A. Yes.</b>	18	Q. And then they arrived at AMB. Does that mean
19	Q. Would -- Is the name of the supervisor you reported to	19	Ambassador Bridge?
20	anywhere in this document?	20	<b>A. Yes.</b>
21	<b>A. I don't remember which supervisor I reported to so --</b>	21	Q. Okay. And then it says they arrived at -- sorry --
22	Q. Okay. But -- So there's a couple of supervisors that	22	Hart Medical arrived, en route to Detroit Receiving
23	I see that are listed so one of them is Tonya Lapsley.	23	Hospital. That's what you said earlier, is the
24	But you don't remember if that was the supervisor you	24	hospital Mr. Elhady was sent to was Detroit Receiving?
25	reported Mr. Elhady's complaint to?	25	<b>A. Yes.</b>
	78		80
1	<b>A. No.</b>	1	Q. Then it says, "CBPO Kehr and CBPO Rocky as escorts at
2	Q. Okay. If you flip -- Well, actually let me back up.	2	0625 hours." Do you see that?
3	So, to your knowledge, would a supervisor have then	3	<b>A. Yes.</b>
4	reported to the watch commander?	4	Q. So 0625 would be approximately 25 minutes after you
5	<b>A. Yes.</b>	5	got on shift?
6	Q. Okay. And if you flip back to the second page of this	6	<b>A. Yes.</b>
7	document where it says CBP-0240 in the bottom corner,	7	Q. And so this matches your recollection that you had
8	the last full paragraph states, "SCBPO Lapsley was	8	checked in on Elhady and asked for EMS to be called
9	notified and assigned CBPO Bradley and CBPO Ferguson,"	9	very early in your shift?
10	and then some redactions, and then it says, "Watch	10	<b>A. Yes.</b>
11	Commander Iverson was advised." Do you see that?	11	Q. Okay. Then -- Were you in touch with the bridge
12	<b>A. Yes.</b>	12	throughout Mr. Elhady's experience at Detroit
13	Q. Does that inform you that the watch commander on duty	13	Receiving Hospital?
14	was Iverson?	14	<b>A. I think Officer Kehr was making calls to check in.</b>
15	<b>A. I don't know if Iverson was the watch commander when I</b>	15	Q. Okay. And how often were those calls being made?
16	<b>came on duty.</b>	16	<b>A. Off the top of my head I couldn't tell you how often.</b>
17	Q. So the watch commander could have also shifted at 6:00	17	Q. Would it be fair to assume that kind of each of these
18	a.m.?	18	phrases in the report about when Elhady arrived at the
19	<b>A. Yes.</b>	19	hospital, and then it says no status update, awaiting
20	Q. Okay. But this informs you that Watch Commander	20	medical care at 0740 -- when you see that section, is
21	Iverson was on duty at the beginning of Elhady's	21	that likely the result of Kehr giving updates back at
22	detention around 1:45 in the morning?	22	the bridge?
23	<b>A. According to this document.</b>	23	<b>A. Yes.</b>
24	Q. Okay. But you weren't there. Okay. So we're going	24	Q. And then the next paragraph says, "CBPO Rocky called
25	back to CBP-0244, about halfway through the document.	25	and stated that Detroit Receiving Hospital physicians

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21 (81 to 84)

	81		83
1	released Elhady." Do you see that?	1	why Mr. Elhady had been detained?
2	<b>A. Yes.</b>	2	MR. GOULDING: Same instruction. You can
3	Q. And that's where you said earlier that you think you	3	answer yes or no.
4	were the one who called because it says this?	4	THE WITNESS: Yes.
5	<b>A. Yes.</b>	5	BY MS. HOMER:
6	Q. Right? But your initial memory was that Kehr was	6	Q. How did you learn it?
7	doing the calling?	7	MR. GOULDING: You can answer how you
8	<b>A. Yes, because I was driving.</b>	8	learned it provided it doesn't reveal the content of
9	Q. That makes sense. And then it says that you with Kehr	9	what you learned.
10	and Elhady were back en route to the bridge at 9:10	10	THE WITNESS: As a result of the case.
11	hours; right?	11	Elhady's case against us.
12	<b>A. Yes.</b>	12	BY MS. HOMER:
13	Q. And does that sound right to you, that the whole	13	Q. Did you discuss Elhady's case with other CBP officers
14	incident was approximately three hours long?	14	after it was filed?
15	<b>A. Yes.</b>	15	<b>A. Just in general terms.</b>
16	Q. And then right beneath that it says that you arrived	16	Q. Okay. So when you say you learned after the case why
17	back at the Ambassador Bridge at 9:20. Do you see	17	he had been detained, did you learn that from an
18	that?	18	official CBP source or document or did you learn it
19	<b>A. Yes.</b>	19	based on your own inference from the lawsuit itself?
20	Q. And does that sound accurate?	20	<b>A. From the document that was provided to me.</b>
21	<b>A. Yes.</b>	21	Q. And when you say the document, what document was that?
22	Q. And then it says Elhady was allowed to leave the CBP	22	<b>A. The TECS printout.</b>
23	facility at 9:25. Do you see that?	23	Q. Okay. So at some point you have received a TECS
24	<b>A. Yes.</b>	24	printout that has more information than the one I
25	Q. And to your recollection he was allowed to leave just	25	provided you?
	82		84
1	by dropping him off at his car?	1	<b>A. I don't recall if it has more.</b>
2	<b>A. To my recollection.</b>	2	Q. Is there anything in this TECS printout that you can
3	Q. Okay. But it's possible you took him back inside the	3	publicly see right now that indicates why Mr. Elhady
4	lobby for a minute?	4	was detained?
5	<b>A. It's possible that either Officer Kehr or myself ran</b>	5	<b>A. I'm sorry. Could you restate the question?</b>
6	<b>in to check to make sure that he was okay to leave.</b>	6	Q. Yeah. Is there anything in this document, the TECS
7	Q. Okay. But you have no memory of bringing him into the	7	report you have in front of you, that indicates why
8	lobby?	8	Mr. Elhady was detained?
9	<b>A. No.</b>	9	MR. GOULDING: I'll again direct the
10	Q. Do you have any memory of the moment when his	10	witness you can answer yes or no to that.
11	handcuffs were taken off?	11	THE WITNESS: Yes.
12	<b>A. Nothing specific.</b>	12	BY MS. HOMER:
13	Q. At any point during your involvement with Mr. Elhady's	13	Q. What information are you looking at that indicates why
14	medical treatment, did anyone at the bridge give you	14	he was detained? Can you point me to it in the
15	an update about why Mr. Elhady was being detained?	15	document?
16	<b>A. No.</b>	16	<b>A. Officer experience.</b>
17	Q. At any point after Mr. Elhady's treatment, did you	17	Q. What do you mean by officer experience?
18	learn why Mr. Elhady had been detained?	18	<b>A. I can read the format and understand what was going</b>
19	MR. GOULDING: I'll object. The witness,	19	<b>on.</b>
20	you can answer yes or no to that, and if you could	20	Q. Okay. So there are -- Are there any literal words you
21	please pause just for a half a second before you	21	can read to me right now that would tell me why Elhady
22	answer these questions, that would be helpful.	22	was detained?
23	THE WITNESS: No.	23	<b>A. No.</b>
24	BY MS. HOMER:	24	Q. But based on the overall contents of the report and
25	Q. Did you come to learn in any form after this incident	25	your experience of a decade as a CBP officer, you have

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22 (85 to 88)

	85		87
1	a sense of why Elhady was detained; is that correct?	1	<b>A. No.</b>
2	<b>A. Yes.</b>	2	Q. Have you ever had any other individual, other than
3	Q. Okay. Can you tell me what that sense is?	3	Anas Elhady, complain about back pain while detained
4	MR. GOULDING: Objection, scope, law	4	in an Ambassador Bridge cell?
5	information privilege and I'll direct the witness not	5	<b>A. No.</b>
6	to answer.	6	Q. Have you ever had any individual complain about how
7	MS. HOMER: I was trying to be careful.	7	cold the cell was?
8	MR. GOULDING: And you were until that last	8	<b>A. No.</b>
9	one.	9	Q. Following this April 11th, 2015 incident with Mr.
10	BY MS. HOMER:	10	Elhady, but before this lawsuit, has anyone at CBP
11	Q. Are you going to follow your counsel's instruction to	11	discussed Mr. Elhady's experience with you?
12	not tell me why Mr. Elhady was detained?	12	<b>A. No.</b>
13	<b>A. Yes, I'm going to follow my counsel's direction.</b>	13	MR. ANCHILL: I'm going to object to
14	Q. Yeah. It's generally a good idea to do what your	14	foundation.
15	lawyers tell you. Do you know Blake Bradley?	15	THE WITNESS: I'm sorry. Apologize.
16	<b>A. Yes.</b>	16	MR. ANCHILL: Foundation. Go ahead. You
17	Q. How well do you know Blake Bradley?	17	can answer.
18	<b>A. I worked with him for a few years at the Ambassador</b>	18	THE WITNESS: No.
19	<b>Bridge.</b>	19	BY MS. HOMER:
20	Q. Did you work with Mr. Bradley in your capacity as a	20	Q. Are you aware of any changes to the furnishings of a
21	counter-terrorism response officer?	21	holding cell since 2015?
22	<b>A. Directly, not that I can recall.</b>	22	<b>A. No.</b>
23	Q. Do you remember what Blake Bradley's title was in	23	Q. Are you aware of any changes to the lighting in the
24	April of 2015?	24	holding cells since 2015?
25	<b>A. Customs and Border Protection officer.</b>	25	<b>A. No.</b>
	86		88
1	Q. Do you remember if he had any special designation	1	Q. Are you aware of any changes to the HVAC system that
2	within that like counter-terrorism response officer?	2	feeds the holding cells since 2015?
3	<b>A. I believe he was also a counter-terrorism response</b>	3	<b>A. No.</b>
4	<b>officer.</b>	4	Q. You mentioned earlier that this I-216 form was
5	Q. Do you have any understanding as to why Blake Bradley	5	introduced after 2015; is that correct?
6	was involved in the detention of Anas Elhady on April	6	<b>A. Yes.</b>
7	11th, 2015?	7	Q. And you mentioned earlier that the paper form I showed
8	MR. GOULDING: Objection, scope, law	8	you is no longer in use?
9	enforcement privilege and I'll direct the witness not	9	<b>A. Correct.</b>
10	to answer.	10	Q. And that's because there's now a computerized
11	THE WITNESS: I'll listen to my counsel.	11	detention system form?
12	BY MS. HOMER:	12	<b>A. Yes.</b>
13	Q. Thank you. Did you ever step inside the cell Anas	13	Q. Other than the change in form, has there been any
14	Elhady was being detained in on April 11th, 2015?	14	change to CBP's detention protocols that you're aware
15	<b>A. Not that I can recall.</b>	15	of since April 2015?
16	Q. Have you, since April 11th, 2015, ever seen a record	16	<b>A. No.</b>
17	of the detention log for Mr. Elhady from that day?	17	Q. On April 11, 2015, was Mr. Elhady under any form of
18	<b>A. No.</b>	18	criminal investigation? To your knowledge?
19	Q. Do you have any memory of that detention log	19	MR. GOULDING: Objection, scope, law
20	reflecting that Mr. Elhady had not been checked in on	20	enforcement privilege, and I'll direct the witness not
21	in regular 15 minute increments?	21	to answer.
22	MR. ANCHILL: I'm going to object. Asked	22	THE WITNESS: I'll listen to my counsel.
23	and answered.	23	BY MS. HOMER:
24	BY MS. HOMER:	24	Q. Okay. On April 11th, 2015, was there an outstanding
25	Q. You can still answer.	25	warrant for Mr. Elhady's arrest, to your knowledge?

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23 (89 to 92)

	89		91
1	<b>A. No.</b>	1	MR. GOULDING: Yes.
2	Q. On April 11th, 2015, to your knowledge, was any	2	(Off the record at 12:33 p.m.)
3	contraband found on Mr. Elhady or in his vehicle?	3	(Back on the record at 12:34 p.m.)
4	<b>A. No.</b>	4	BY MS. HOMER:
5	Q. Do your interactions with Mr. Elhady from April 2015	5	Q. Okay. I will break the question into two to override
6	stand out as unusual in any way?	6	Ben's form objection. So here's a yes or no question.
7	<b>A. Yes.</b>	7	In your job responsibilities as a CBP officer at the
8	Q. Why?	8	Ambassador Bridge, have there been any other
9	MR. GOULDING: I'll direct the witness that	9	experiences that stand out to you as unusual or
10	if you can answer that without revealing law	10	extraordinary?
11	enforcement privilege, you may. Otherwise you may	11	<b>A. Yes.</b>
12	not, and if you'd like to step out, we can preview the	12	Q. Can you tell me what some of those experiences are?
13	answer.	13	<b>A. Yes.</b>
14	THE WITNESS: Can we step out?	14	Q. Go ahead.
15	MR. GOULDING: Yes.	15	<b>A. I've seized drugs, illegal drugs from various</b>
16	(Off the record at 12:29 p.m.)	16	<b>celebrities that have crossed the border.</b>
17	(Back on the record at 12:32 p.m.)	17	Q. Can you tell me which celebrities?
18	MS. HOMER: We can go back on the record.	18	<b>A. No.</b>
19	Can you read back that last question?	19	Q. Have you had anything else other than seizing drugs
20	(The following portion of the record was	20	from celebrities that you remember as particularly
21	read by the reporter at 12:32 p.m.:	21	unusual or extraordinary?
22	Q. "Do your interactions with Mr. Elhady	22	<b>A. Truck driver having a heart attack and running into</b>
23	from April 2015 stand out as unusual in any	23	<b>the wall and being ejected from his truck.</b>
24	way?	24	Q. Is that another --
25	<b>A. Yes.</b>	25	<b>A. That's down in the secondary -- or down in the</b>
	90		92
1	Q. Why?"	1	<b>Ambassador Bridge Company parking area, or driving</b>
2	MR. GOULDING: For the record, agency	2	<b>area. The access roads for the bridge.</b>
3	counsel has previewed the answer. It does not contain	3	Q. And how did you respond to that truck driver being,
4	privileged information and the witness is permitted to	4	having a heart attack?
5	answer.	5	<b>A. I did not respond.</b>
6	THE WITNESS: Because he requested medical	6	Q. Did you see it happen?
7	attention.	7	<b>A. Heard.</b>
8	BY MS. HOMER:	8	Q. Heard. And who responded?
9	Q. And in your experience individuals requesting medical	9	<b>A. Various officers.</b>
10	attention at the border is relatively rare?	10	Q. And was medical attention called immediately?
11	<b>A. Yes.</b>	11	<b>A. Yes.</b>
12	Q. What other experiences have you had as a CBP officer	12	Q. Aside from hearing it happen, did you have any
13	at the Ambassador Bridge that stand out as	13	involvement in that incident?
14	particularly unusual or extraordinary?	14	<b>A. No.</b>
15	MR. GOULDING: I'll give the witness the	15	Q. Okay. Has there ever been anything particularly
16	same instructions. It's a broad question. To the	16	violent that has occurred in the course of your
17	extent anything unusual or extraordinary involves law	17	responsibilities as a CBP officer at the Ambassador
18	enforcement privileged information, you cannot reveal	18	Bridge?
19	it. If there's any doubt in your mind, we'll again go	19	<b>A. To me personally?</b>
20	out and talk about it.	20	Q. In your vicinity that you're aware of.
21	MR. ANCHILL: And I'll object based on	21	<b>A. Not while I've been on shift.</b>
22	form. It assumes that there was something else	22	Q. Has there been a violent incident that's happened when
23	extraordinary that occurred during his time working as	23	you weren't on shift?
24	an officer.	24	<b>A. Yes.</b>
25	THE WITNESS: Step out?	25	Q. Did you personally witness it?

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24 (93 to 96)

	93		95
1 A. No.		1 with at the border who you considered to present a	
2 Q. Okay. Is this a violent incident that happened at the		2 higher risk of violence towards you or the country?	
3 bridge that you're just aware of?		3 A. I don't understand your question.	
4 A. Yes.		4 Q. Does CBP rank travelers according to their risk?	
5 Q. What was that incident?		5 Actually that's a bad question. Does CBP ever	
6 A. A few years ago there was a shooting. Maybe five, six		6 designate travelers as higher risk than other	
7 years ago.		7 travelers?	
8 Q. Has anyone ever pulled a weapon on you while you have		8 MR. GOULDING: Objection, scope, law	
9 been on duty as a CBP officer at the Ambassador		9 enforcement privilege and I'll direct the witness not	
10 Bridge?		10 to answer.	
11 A. No.		11 THE WITNESS: I'll listen to counsel.	
12 Q. Have you ever confiscated a weapon from someone while		12 BY MS. HOMER:	
13 you were on duty?		13 Q. Has there ever been an interaction you've had with any	
14 A. Yes.		14 traveler that has just caused you to be on higher	
15 Q. Do those moments of confiscating a weapon stand out to		15 alert than you ordinarily are in the course of your	
16 you or are they ordinary?		16 duties?	
17 A. It stands out to me.		17 A. I'm always on alert during the course of my duties.	
18 Q. Approximately how many times has that happened?		18 Q. Have you ever been disciplined as a CBP officer?	
19 A. That I've taken a weapon off of an individual?		19 A. Not that I can recall.	
20 Q. Yeah.		20 MS. HOMER: I think I'm done. I am done.	
21 A. Just a few times.		21 I have no further questions.	
22 Q. Did you feel threatened during those interactions when		22 EXAMINATION	
23 you took a weapon off of an individual?		23 BY MR. ANCHILL:	
24 A. No.		24 Q. Good afternoon, Officer Rocky.	
25 Q. Was the individual complying with your instructions?		25 A. Good afternoon. Is it that time already?	
	94		96
1 A. Yes.		1 MR. CARTY: It is.	
2 Q. Have you ever dealt with someone who was particularly		2 BY MR. ANCHILL:	
3 combative or aggressive towards you as a CBP officer?		3 Q. You testified that you worked overtime as a CBP	
4 A. No.		4 officer; correct?	
5 Q. Have you ever personally been involved in a situation		5 A. I have, yes.	
6 as a CBP officer that you felt was dangerous?		6 Q. Did you work overtime on April 11th, 2015?	
7 A. Every day is potentially dangerous.		7 A. I don't recall but the schedule shows that I did not.	
8 Q. Have you ever felt like a situation was escalating or		8 Q. You were working the 6:00 a.m. shift on April 11,	
9 could turn violent?		9 2015?	
10 A. Again, every situation could turn violent.		10 A. Yes.	
11 Q. Okay. Has there ever been a moment as a CBP officer		11 Q. And you were asked to check on Mr. Elhady shortly	
12 that you have been afraid for your safety, like a		12 after your 6:00 a.m. shift started; is that correct?	
13 heightened level?		13 A. Yes.	
14 A. No.		14 Q. If the EMS records say they were dispatched at 6:11,	
15 Q. Am I correct that one of the missions of CBP is to		15 do you have any reason to believe that time is wrong?	
16 deter and prevent terrorism?		16 A. No.	
17 A. Yes.		17 Q. If EMS was dispatched at 6:11, would that mean that	
18 Q. Have you ever interacted with someone you thought		18 you checked on Mr. Elhady almost immediately upon	
19 might be a terrorist at the border?		19 starting your shift?	
20 MR. GOULDING: Objection, scope, law		20 A. Yes.	
21 enforcement privilege and I'll direct the witness not		21 Q. The TECS report says that you and Officer Kehr were	
22 to answer.		22 escorts for Mr. Elhady at 6:25. Does that mean that	
23 THE WITNESS: I'll listen to counsel.		23 the ambulance arrived before that?	
24 BY MS. HOMER:		24 A. Most likely.	
25 Q. Has there ever been an individual you were interacting		25 Q. What's the first memory you have of seeing Mr. Elhady?	

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25 (97 to 100)

	97		99
1 A. <b>Seeing him in the cell and when I was doing the welfare check.</b>		1 Q. Did someone instruct you to handcuff him?	
3 Q. Shortly after your shift started, your 6:00 a.m. shift started?		2 A. <b>They may have instructed Officer Kehr. I was most likely at that point, I was getting the transport van to follow.</b>	
5 A. Yes.		5 Q. In the time that you were with Mr. Elhady, did you ever hear him voice any complaints about his handcuffs?	
6 Q. When you first saw Mr. Elhady, how was he positioned?		8 A. No.	
7 A. <b>I can't recall if he was standing or sitting.</b>		9 Q. Were there EMTs that you saw?	
8 Q. Was he conscious?		10 A. Yes.	
9 A. Yes.		11 Q. Do you recall their genders?	
10 Q. Before seeing him, did you hear him yelling?		12 A. <b>I believe one was male and one was female. I know at least one was female.</b>	
11 A. No.		14 Q. Do you remember anything about the EMT in the back of the ambulance?	
12 Q. Did you hear any voice at all coming from the cells before seeing Mr. Elhady that morning?		16 A. <b>I believe that was the female.</b>	
14 A. No.		17 Q. Do you have any memory of any interactions between Officer Kehr and the EMT?	
15 Q. What did Mr. Elhady look like generally when you first saw him?		19 A. No.	
17 A. <b>Young adult.</b>		20 Q. When the ambulance got to the hospital, did you observe any tension between Officer Kehr and the EMT?	
18 Q. Did he appear to be in any kind of medical distress or crisis?		22 A. No.	
20 A. <b>Not that I could determine.</b>		23 Q. If you had observed tension between Officer Kehr and the EMT, do you think you'd remember that?	
21 Q. Was he shaking or shivering?		25 A. Yes.	
22 A. No.			100
23 Q. Did he tell you that he had passed out?		1 Q. Why is that?	
24 A. No.		2 A. <b>That would be unusual.</b>	
25 Q. Did he tell you that he had a headache?		3 Q. Do you remember any interactions between yourself and any of the hospital nurses?	
	98	5 A. <b>Nothing specific, no.</b>	
1 A. No.		6 Q. Do you remember any interactions between Officer Kehr and any of the hospital nurses?	
2 Q. Did he complain about being cold?		8 A. No.	
3 A. No.		9 Q. Do you remember any interactions between yourself and any of the hospital doctors?	
4 Q. Did he say anything about the cell temperature?		11 A. <b>Just the doctor that examined Officer Elhady. Or Mr. Elhady. Sorry.</b>	
5 A. No.		13 Q. And what do you recall?	
6 Q. What did he say to you?		14 A. <b>The doctor asked me what was going on with Mr. Elhady, and I said he was complaining of back pain.</b>	
7 A. <b>His complaint was that his back hurt and I asked him if he wanted EMS at that time.</b>		16 Q. Do you remember any interactions between Officer Kehr and any of the hospital doctors?	
8 Q. And then what did you do?		18 A. No.	
10 A. <b>Well, he stated that he wanted to go to the hospital so I went and told the supervisors at that point.</b>		19 Q. Did you get into an argument with one of the nurses?	
12 Q. And how did the supervisor respond?		20 A. No.	
13 A. <b>Said that we can have him taken to the hospital but let him know that if he doesn't go, he'll be out of here in ten, 15 minutes.</b>		21 Q. Did you get into an argument with one of the doctors?	
16 Q. So the ambulance was summoned; correct?		22 A. No.	
17 A. Yes.		23 Q. If you had gotten into an argument with one of the nurses or doctors, is that something you'd remember?	
18 Q. Officer Kehr testified that when Mr. Elhady arrived at the ambulance, he had his shoes and jacket. Do you have any recollection of whether Mr. Elhady had his shoes and jacket?		25 A. Yes.	
22 A. <b>No. I do not.</b>			
23 Q. Did you receive any instructions about transporting Mr. Elhady to the hospital?			
25 A. <b>Not that I can recall.</b>			

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26 (101 to 104)

	101		103
1 Q.	Why is that?	1	detention cell, where do you conduct that interview?
2 A.	<b>It would be unusual.</b>	2	<b>If they're being detained in a detention cell, we</b>
3 Q.	Did you observe Officer Kehr getting into an argument	3	<b>would remove them from that and bring them to one of</b>
4 with one of the nurses?		4	<b>the interview rooms.</b>
5 A.	<b>No.</b>	5	Q. So outside the cell?
6 Q.	Did you observe Officer Kehr getting into an argument	6	A. <b>Yes.</b>
7 with one of the doctors?		7	Q. Is that always the case?
8 A.	<b>No.</b>	8	A. <b>Except for maybe a short question of what's your name</b>
9 Q.	If you had observed Officer Kehr getting into an	9	<b>or what's your birth date, they would always be</b>
10 argument with one of the nurses or doctors, would you		10	<b>removed for questioning. Or interview, rather.</b>
11 remember that?		11	Q. Has a traveler or a detainee ever asked you for a
12 A.	<b>Yes.</b>	12	blanket or a jacket because they were cold?
13 Q.	Why?	13	A. <b>No.</b>
14 A.	<b>It would be unusual.</b>	14	Q. If they did, if they had, would you remember that?
15 Q.	You testified that there's no camera in the cells at	15	A. <b>Probably.</b>
16 the Ambassador Bridge; correct?		16	Q. If you heard a traveler or detained person screaming
17 A.	<b>Yes.</b>	17	for help from a detention cell, what would you do?
18 Q.	Are you sure?	18	A. <b>I would probably let supervisors know that he's</b>
19 A.	<b>Yes.</b>	19	<b>screaming for help and then go check on him if nobody</b>
20 Q.	And they also did not have a camera in 2015; is that	20	<b>else had gotten up to go check on him.</b>
21 correct?		21	Q. Has that ever happened?
22 A.	<b>That's correct.</b>	22	A. <b>Not to my recollection.</b>
23 Q.	And you testified they had a water fountain?	23	Q. Is that something you'd remember had it happened?
24 A.	<b>Yes.</b>	24	A. <b>Yes.</b>
25 Q.	You testified that the thermostat that covers the cell	25	Q. If you personally observed a traveler or detainee in
	102		104
1	area also covers additional areas in the building	1	need of medical attention, what would you do?
2 where officers are present; correct?		2	A. <b>I would definitely let supervisors know. If it was</b>
3 A.	<b>Yeah.</b>	3	<b>something that required immediate first aid attention,</b>
4 Q.	Is there any way that someone could make just the	4	<b>I would probably try to do that, you know, if they're</b>
5 detention cells cold but not the other areas?		5	<b>bleeding or something.</b>
6 A.	<b>No.</b>	6	Q. Have you ever been part of a conspiracy by CBP
7 Q.	Can a nonsupervisory officer adjust the thermostat?	7	officers to harm or torture a detainee?
8 A.	<b>No.</b>	8	A. <b>No.</b>
9 Q.	Why is that?	9	MS. HOMER: Objection, calls for a legal
10 A.	<b>Well, the supervisors are the ones that have the</b>	10	conclusion.
11 <b>access to the key to unlock to boxes that cover the</b>		11	BY MR. ANCHILL:
12 <b>thermostats.</b>		12	Q. What's the answer?
13 Q.	Have you ever adjusted the thermostat in the building?	13	A. <b>No.</b>
14 A.	<b>No.</b>	14	Q. Are you aware of any way that the detention cells can
15 Q.	Have you ever had custody to the key to the box	15	be chilled to a dangerously low temperature?
16 enclosing the thermostat?		16	A. <b>No.</b>
17 A.	<b>No.</b>	17	Q. What would you do if you were approached about a plan
18 Q.	Has anyone ever complained to you about dangerously	18	to chill a detention cell to a dangerously low
19 cold conditions in the detention cells at the		19	temperature and then put somebody in it?
20 Ambassador Bridge?		20	MS. HOMER: Objection, calls for
21 A.	<b>No.</b>	21	speculation.
22 Q.	Has anyone ever complained to you about the cell	22	THE WITNESS: I would definitely let
23 lights being too bright?		23	somebody know. Whether a supervisor or watch
24 A.	<b>No.</b>	24	commander, somebody would know.
25 Q.	When you interview a traveler that's detained in a	25	BY MR. ANCHILL:

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27 (105 to 108)

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105	107
<p>1 Q. Would you remember it if you were approached with a 2 plan like that?</p> <p>3 A. Yes.</p> <p>4 Q. How do you know you'd remember that?</p> <p>5 A. <b>That would be so unusual as to be -- it would stick in 6 my mind forever.</b></p> <p>7 Q. Have you ever done anything to hide your identity 8 while working as a CBP officer?</p> <p>9 A. No.</p> <p>10 Q. Have you ever refused to identify yourself when a 11 member of the public asks your name?</p> <p>12 A. No.</p> <p>13 Q. Do you wear a uniform while you're on duty?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Always?</p> <p>16 A. Always.</p> <p>17 Q. Does the uniform have your name on it?</p> <p>18 A. Yes, it does.</p> <p>19 Q. You testified that when you checked on a detained 20 person at the bridge, you would record it on a log; is 21 that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And in 2015 that was a paper log?</p> <p>24 A. Yes.</p> <p>25 Q. Whose responsibility was it to maintain that log?</p>	<p>1 (Back on the record at 12:58 p.m.)</p> <p>2 BY MR. ANCHILL:</p> <p>3 Q. Do you have any knowledge as to whether the EMTs came 4 inside the building to get Mr. Elhady or if Mr. Elhady 5 came out to them?</p> <p>6 A. No, I do not.</p> <p>7 Q. Why is that?</p> <p>8 A. <b>At that time I would have been getting the detention 9 van so I wouldn't have been in the area.</b></p> <p>10 MR. ANCHILL: Thank you. I have nothing 11 further.</p> <p>12 RE-EXAMINATION</p> <p>13 BY MS. HOMER:</p> <p>14 Q. Okay. I just have a few more questions. You didn't 15 personally interview Mr. Elhady to determine any of 16 the contents of that TECS report, did you?</p> <p>17 A. No.</p> <p>18 Q. You weren't on shift yet?</p> <p>19 A. No.</p> <p>20 Q. And you did talk with Mr. Elhady about his need for 21 medical attention through the door; correct?</p> <p>22 A. Yes.</p> <p>23 Q. But you don't remember that conversation verbatim, do 24 you?</p> <p>25 A. No.</p>
106	108
<p>1 A. <b>While the case was in progress, that would be the case 2 officer.</b></p> <p>3 Q. And what about after that?</p> <p>4 A. I don't know.</p> <p>5 Q. Was it ever your responsibility?</p> <p>6 A. No.</p> <p>7 Q. When you're securing a detainee in a detention cell, 8 do you take away the detainee's jacket?</p> <p>9 A. <b>We would take off everything to their basilar, like 10 whether it was a T-shirt or sweater. For pat-down 11 purposes that would all be removed.</b></p> <p>12 Q. So that would include a jacket?</p> <p>13 A. Yes.</p> <p>14 Q. Would you always take away a jacket?</p> <p>15 A. Yes.</p> <p>16 Q. You testified that there's a bench in the detention 17 cells; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And that the bench is made of wood and metal?</p> <p>20 A. Yes.</p> <p>21 Q. What's the part of the bench that you sit on made out 22 of?</p> <p>23 A. Wood.</p> <p>24 MR. ANCHILL: Let's take a quick break. 25 (Off the record at 12:55 p.m.)</p>	<p>1 Q. It was more than four years ago?</p> <p>2 A. Yes.</p> <p>3 Q. Between Mr. Elhady requesting medical attention and 4 leaving the Ambassador Bridge in an ambulance, did you 5 personally return any personal items to Mr. Elhady?</p> <p>6 A. No.</p> <p>7 Q. You mentioned a case officer earlier. Who was the 8 case officer?</p> <p>9 A. <b>The officer that would have been conducting the 10 interviews.</b></p> <p>11 Q. And is that different than a supervisor?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know who the case officer was with respect to 14 Mr. Elhady?</p> <p>15 A. <b>TECS record shows that it was Officer Bradley.</b></p> <p>16 Q. Do you remember whether Elhady was in detention cell 17 one or detention cell two?</p> <p>18 A. <b>He -- I believe he was in detention cell one.</b></p> <p>19 Q. But you're not sure?</p> <p>20 A. <b>Not completely sure but most likely number one.</b></p> <p>21 Q. Okay.</p> <p>22 MS. HOMER: That's it. Those are my 23 questions.</p> <p>24 MR. ANCHILL: Nothing further here. 25 THE WITNESS: Okay.</p>

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28 (109 to 112)

109

1 (The deposition was concluded at 1:01 p.m.  
2 Signature of the witness was not requested by  
3 counsel for the respective parties hereto.)

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## CERTIFICATE OF NOTARY

1 STATE OF MICHIGAN )  
2 ) SS  
3 COUNTY OF WAYNE )

4  
5 I, JOANNE SMITH, certify that this  
6 deposition was taken before me on the date  
7 hereinbefore set forth; that the foregoing questions  
8 and answers were recorded by me stenographically and  
9 reduced to computer transcription; that this is a  
10 true, full and correct transcript of my stenographic  
11 notes so taken; and that I am not related to, nor of  
12 counsel to, either party nor interested in the event  
13 of this cause.

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19 *Joanne Smith*

20 \_\_\_\_\_  
21  
22 Joanne Smith, CSR-3099  
23 Notary Public,  
24 Wayne, Michigan.  
25 My Commission expires: 1-24-23

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<b>A</b>	<b>actual</b>	106:3	81:25
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<b>able</b>		<b>afterwards</b>	<b>already</b>
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<b>about</b>	58:20, 78:2, 95:5	<b>again</b>	<b>also</b>
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